CANADA

DEBATES OF THE SENATE

OFFICIAL REPORT
(HANSARD)

THE HONOURABLE GUY CHARBONNEAU
SPEAKER

1986-87-88
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THE SPEAKER

THE HONOURABLE GUY CHARBONNEAU

THE LEADER OF THE GOVERNMENT

THE HONOURABLE LOWELL MURRAY, P.C.

THE LEADER OF THE OPPOSITION

THE HONOURABLE ALLAN J. MACEACHEN, P.C.

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

GENTLEMAN USHER OF THE BLACK ROD

RENÉ M. JALBERT, C.V., C.D.

THE SENATE

Wednesday, June 1, 1988

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

Prayers.

TOBACCO PRODUCTS CONTROL BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-51, to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Tuesday next, June 7, 1988.

[*Translation*]

NON-SMOKERS' HEALTH BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-204, an Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising.

Bill read first time.

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

On motion of Senator Haidasz, bill placed on the Orders of the Day for second reading on Tuesday, June 7, 1988.

[*English*]

"SOME OF MY BEST FRIENDS DIDN'T LOOK LIKE ME"

NOTICE OF INQUIRY

Hon. Philippe Deane Gigantès: Honourable senators, I give notice that on Tuesday next, June 7, I will call the attention of the Senate to the question, "Some of my best friends didn't look like me."

REPRODUCTIVE TECHNOLOGY

NEED FOR ROYAL COMMISSION—NOTICE OF INQUIRY

Hon. Mira Spivak: Honourable senators, I give notice that on Thursday next, June 9, 1988, I will draw the attention of the Senate to the need for a Royal Commission on Reproductive Technology.

QUESTION PERIOD

BRITISH COLUMBIA

SOUTH MORESBY—ESTABLISHMENT OF NATIONAL PARK—BREAKDOWN IN NEGOTIATIONS

Hon. Len Marchand: Honourable senators, I have a question for the Leader of the Government in the Senate.

I am most disturbed about the stories concerning the breakdown in the talks relating to setting aside South Moresby Island as a park. Can the Leader of the Government in the Senate enlighten us as to what the real facts are behind this breakdown?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not sure I can add much to what my friend already knows.

A memorandum of agreement was signed last July by the Prime Minister and the Premier of British Columbia containing a federal commitment of $106 million towards the establishment of a national park at South Moresby, including a $50 million regional development initiative for the Queen Charlotte Islands. At the moment there appears to be some reluctance on the part of the government of the province of British Columbia to follow through. As Mr. Mazankowski said recently, that government has had some second thoughts and we are now trying to resolve this matter as between the two governments.

Senator Marchand: Are talks going on now? As the Minister of State for Federal-Provincial Relations, is the Leader of the Government in the Senate also involved in those talks?

Senator Murray: Honourable senators, as in so many federal-provincial dossiers, I am not conducting these discussions personally, but I am aware that within the past 24 hours there have been contacts between representatives of the federal government and of the provincial government and those discussions are continuing.

Senator Marchand: Since I have a keen interest in this matter, would the minister be good enough to send me, at some point, a note on all the issues involved and just where they stand? I hope every effort is being made to set aside this beautiful piece of the world as a heritage site in a manner that

would satisfy the needs of the Haida. Their concerns are of the utmost importance to me and to all Canadians.

Senator Murray: I will do what my honourable friend asks. As far as the Haida are concerned, he will be aware that discussions have been going on with them for many months and it is hoped that an understanding can be reached quite soon.

THE SENATE

FILLING OF VACANCIES—REASONS FOR DELAY

Hon. Azellus Denis: I would like to ask a question of the Leader of the Government in the Senate. I read in yesterdays *Globe and Mail* that Mr. Mulroney is not in a hurry to fill the eight Senate vacancies. I note that, of those eight, six will require to be appointed from provinces with Liberal governments. Has the federal government any other reason for delaying those appointments than that suggested in the article to which I referred?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I must say that I am not aware that the provincial governments in question have, in fact, submitted lists of nominees to the Prime Minister, as provided for in the political accord reached at Meech Lake. However, I can inquire about that matter.

Senator Denis: Is it not the duty of the federal government to ask the provincial governments to recommend names to fill those vacancies?

Senator Murray: Honourable senators, I am not aware that the political accord is precise on whether the federal government should formally request a list of nominees first, or whether the provinces can simply submit a list of nominees, as I would have thought would be the case. I trust we are not getting into the, "After you, my dear Alphonse!" routine.

There is nothing to prevent the provincial governments in question from submitting a list of nominees, with or without a formal request from the federal government. I shall make inquiries as to the status of this matter in respect of all the vacancies and see what information I can properly bring to the public's attention at this time.

Senator Denis: Please do.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, may I ask a supplementary question and ask Senator Murray, when he is doing his research, to find out whether a list has been submitted by the Premier of Nova Scotia?

Senator Murray: Yes, I shall do that, honourable senators. Indeed, my response was intended to indicate that I would look into the status of these vacancies in all provinces.

Hon. Charles McElman: Perhaps the minister would like to arrange with the provinces to add this as an additional prize in the Lotto 6/49 weekly draw!

[Senator Marchand.]

CANADA-UNITED STATES FREE TRADE AGREEMENT

STATUS OF AND STATEMENTS ATTRIBUTED TO CANADIAN TRADE AMBASSADOR—GOVERNMENT RESTRAINT ACTION

Hon. Charles McElman: Honourable senators, two weeks ago I asked the Leader of the Government to determine whether Mr. Simon Reisman is still a trade ambassador in the employ of the government.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): That very night I attended a meeting of the cabinet, and I found Ambassador Reisman at or near the table. I take it for granted that he is still on the payroll.

Senator LeBlanc: Are you sure he was not under the table?

Senator McElman: My honourable friend suggests that he may have been under the table.

Senator LeBlanc: Coaching Crosbie!

Senator Murray: Never! That would be a great injustice. He is a very temperate man.

Senator McElman: Then my ancillary question would be whether, having determined that, the government has made any attempt to put a leash on this gentleman to have him refrain from entering political debate at the national level?

Senator Murray: Honourable senators, I hope my friend and others are not unduly sensitive about remarks made by Ambassador Reisman in the course of his duties. He was the chief negotiator for Canada in the free trade negotiations. He clearly supports free trade. He feels, and justifiably so, that he has something of substance and importance to say to the Canadian people on the subject—

Senator LeBlanc: He always has.

Senator Murray: —as he did when he negotiated the Auto Pact with the United States for the then Government of Canada.

He has made comments about the role of the Senate, which, as I indicated the other day, I believe are only restatements of the obvious. He made what I thought were laudatory remarks about some people, in particular the Leader of the Opposition in the Senate, when he described him as a "free-trader." Coming from Ambassador Reisman, that should be considered a compliment.

Senator Flynn: Beyond the call of duty!

Senator McElman: That falls somewhat short of the names that he has been called on occasion.

May I remind the Leader of the Government in the Senate that I do not disagree with what Mr. Reisman says when he speaks to the Free Trade Agreement as such, but I would remind him of the quotation I gave him two weeks ago taken from that impeccable journal, *The Daily Gleaner* of Fredericton, dated May 10, 1988.

Senator Murray: You did not always feel that way about it.

• (1410)

Senator McElman: It had another publisher at that time, Senator Murray, with whom both of us were acquainted.

I quote Simon Reisman. He said:

> I shouldn't be trying to speak for the political people, (but)—

And then he went on, of course, to speak for the political people.

> —I think the prime minister intends to put this agreement through the Parliament of Canada expeditiously and then go to the people. My advice is get the agreement in place and then go to the people.

That is a highly debatable intervention; it is given in a partisan fashion and has nothing to do with the man's role as a trade ambassador for Canada. So I simply ask: Has somebody made an attempt—it would probably be futile—to put a leash on the man and keep him out of the political arena?

Senator Murray: Honourable senators, I think, first, that it is incorrect to characterize that advice as partisan.

Some Hon. Senators: Oh, oh!

Senator Perrault: Come on!

Senator Murray: What could be more normal than that an ambassador who has negotiated an historic Free Trade Agreement with the United States would want to see that agreement ratified by Parliament and implemented as expeditiously as possible? What could be more normal than his wanting to see that happen during the mandate of the present government? It does not seem to me to be correct to describe that as partisan advice. On the contrary, I would have thought that honourable senators and others would be pleased with the candour with which Ambassador Reisman is sharing with the general public his advice to the Prime Minister.

Senator McElman: Although I will not try to put too fine a point upon it, I suggest to the Leader of the Government in the Senate that his views have changed immensely since he was in New Brunswick acting as an adviser to the government.

GOVERNMENT PUBLICITY CAMPAIGN

Hon. Azellus Denis: Honourable senators, may I ask the government leader why so many millions of dollars are spent in publicity that tries to show the advantages of this agreement while not one cent is spent in trying to show the disadvantages of it?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, Canada has a $200 billion trading relationship with the United States. It seems to me that a very small amount of money is being spent—and not in a partisan way—to sell the deal.

Some Hon. Senators: Oh, oh!

Senator Murray: First, the honourable senator can look at the purposes for which money has already been spent in this regard. It has been spent, for example, to print the Elements of the Agreement, a document which was tabled in this place and in the other place; money was also spent in distributing it across the country. To suggest that the campaign is going to take on a partisan cast is surely to anticipate a publicity campaign that is not yet launched. This is not a case of television commercials showing the flight of Canada geese.

[*Translation*]

Senator Denis: Is he admitting that the harm done by one does not undo the harm done by the other?

[*English*]

PUBLIC SERVICE

GOVERNMENT TREATMENT OF POLITICAL OR PARTISAN STATEMENTS BY MEMBERS

Hon. Philippe Deane Gigantès: Honourable senators, I have one or two questions for the Leader of the Government in the Senate. Does he wish to address to other members of the Public Service the advice that he gives regarding Ambassador Reisman? Is an intervention delivered in a political or partisan way by a public servant permissible only if it praises the government, or, as in the case of the president of the Public Service Alliance, is such an intervention considered to be out of line—as it was by the Prime Minister, at least—when it attacks the government?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, it must be obvious to all that Ambassador Reisman is *sui generis*.

Senator Gigantès: He certainly is some sort of national resource.

CANADA-UNITED STATES FREE TRADE AGREEMENT

GOVERNMENT PUBLICITY CAMPAIGN

Hon. Philippe Deane Gigantès: Honourable senators, I have received documents which have been distributed by the office that Mr. Crosbie has now taken over. These documents, referring to information that is impartial, purport to give an independent view of what has been said in the media. However, in the whole of the documents there is no mention of the criticisms made by the *Toronto Star*—not one of the criticisms appears. In none of the documents have they quoted what Mr. McCain has been saying in *Maclean's* about the food processing industry—and this is not the first time he has said these things.

I would like to ask the Leader of the Government if he insists that the documents that have been produced are impartial and fair. I would like him to say that on the record. I will then bring the documents in tomorrow.

Hon. H.A. Olson: I do not know whether the minister is going to answer. If he is not going to answer Senator Gigantès' question—

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I have answered already.

Senator Olson: —I would like to ask him another question. How can the Leader of the Government justify this or suggest that this is non-partisan material, which will cost $10 million, when the minister responsible, the Honourable John Crosbie, has informed the Women's National Conservative Association that free trade is going to be an election issue? If he has said that, this then becomes Tory propaganda and nothing short of it. How does the Leader of the Government justify that kind of action, or is he denying that Mr. Crosbie, the minister responsible, has already made the announcement that free trade will be an election issue?

Senator Murray: Honourable senators, election issues are not decided solely by the government or by the Progressive Conservative Party. I would think that my honourable friends opposite, if they can get their act together, might have something to say about that.

Senator Olson: If your honourable friends opposite got their act together and read some of your old speeches, they could make some most telling comments about the right stage at which the government can print things like this and call them public documents. The Leader of the Government used to argue that until they are passed by Parliament they are Tory or Liberal propaganda. You are trying to make that point, and that is the stage you are now at. If you like, I will dig up the chapter and verse of your own statements.

Senator Murray: My friend can dig up chapter and verse if he likes, but I would ask that he not rush to judgment. He should wait to see what the content of this public information campaign is before he rushes to condemn it as partisan.

Senator Olson: It is not I who am rushing; it is your own colleague, the minister responsible for it, who is. Mr. Crosbie has already said what he is going to do with the trade issue. He has said they are going to spend $10 million promoting the acceptance of the free trade deal. It seems to me that the minister should at least read his own propaganda.

COPYRIGHT ACT

BILL TO AMEND—REPORT OF COMMITTEE ON MESSAGE FROM COMMONS AND MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENTS ADOPTED

The Senate proceeded to consideration of the Twenty-Fifth Report of the Standing Senate Committee on Banking, Trade and Commerce (Motion and Message relating to certain amendments to Bill C-60, An Act to amend the Copyright Act and to amend other Acts in consequence thereof), presented on Tuesday, May 31, 1988.

Hon. Richard J. Doyle: Honourable senators, I have spoken on this subject before, and I will not detain you for long this afternoon. I first spoke on this bill in this chamber some weeks ago when I was filled with a great deal of hope that we would move quickly to accept legislation that in my opinion seemed very much needed and too long in coming, many years having passed since we had seriously looked at the subject of copyright.

● (1420)

When I returned to this subject after it had been to the Banking, Trade and Commerce Committee and the committee had presented its report, I came back with concern, alarm and almost with depression that the merits of the bill had been lost in a discussion of whether or not the timing was particularly propitious and whether or not we should wait until we had the second copyright bill which had been promised. I tried to give some shape to those concerns at that time.

The committee received the message from the other place, and since we last discussed it here the matter has been dealt with twice in the committee. At the first meeting it was agreed that we should be willing to see the minister at her earliest convenience if she was available so that we could pursue questions having to do with what had already occurred, or what might occur in the near future, by way of getting users and creators of copyright together to agree on how they should function under the bill. What we were searching for—what the chairman was searching for, certainly—was some reassurance that, if we did get on with the first half of the legislation, the second half would come shortly and would be received as a matter calling for some immediate agreement by the parties concerned.

I am overjoyed to be able to speak to you today and say that this assurance was forthcoming from the minister in a most affirmative way; that the existence of the legislation had been a spur to the people who are to be affected by it—that is, the users and the creators—and that they were meeting, had been meeting and would be meeting. The minister was convinced that most of the matters dealt with in Bill C-60 would be resolved and, what is more, she would, given the normal process of government activity, be ready with the second half of the legislation by September of this year.

It was with that reassurance from the minister that the members of the committee were willing to come to the agreement which you found yesterday in the report submitted to this chamber.

I will not read that report, but I will read its conclusion. It states:

> The evidence presented by the Minister of Communications to the Committee indicated that progress has been made toward resolving outstanding issues between users and creators of copyright material. This includes agreement on most of the exceptions from copyright to be provided to users in stage two of copyright reform. The

lack of information regarding such exceptions was cited by the majority of the Committee in its recommendation in its previous report regarding the postponement of the establishment of collectives.

In light of the Minister's evidence regarding agreement on copyright exceptions, and in view of the short time horizon before stage two is introduced, the Committee no longer feels that this postponement is necessary and therefore recommends that the Senate not insist on amendment 2 of its report on Bill C-60.

Further, given the commitment by the Minister to allow consultations between officials and artists and curators and museum managers to arrive at an agreed upon exhibition right for stage two of copyright reform, the Committee recommends that the Senate not insist on amendment 1 of its report on Bill C-60 which called for the deletion of clause 2 respecting exhibition rights.

Honourable senators, I move the adoption of this report.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I do not intend to take very long in my comments on this particular committee report. Senator Doyle has said that he was joyful at the results of the committee meeting. I must say that I was surprised on being informed by Senator Doyle as he left the building on Friday that the committee had concluded in a mood of sweetness and light and had reached an agreement and that, therefore, the report which we have received today would be forthcoming. Honourable senators, I am pleased that that has occurred and that the dialogue that has taken place between the minister and the government, and the Senate and the standing committee, has resulted in this particular outcome.

I wanted to speak to the chairman myself about the committee deliberations on Friday. I found that he was in Ireland on Monday and was able to get in touch with him late on Monday—at least it was late for him, although not so late for me—and he certainly confirmed the substance of what Senator Doyle has placed before us today. I understand that consultations have taken place and will continue to take place between the interested parties. I understand that a number of exceptions have been identified and that further exceptions may be identified in future.

Moreover, I understand that the minister had given a definite undertaking that, all things being equal, the second phase would be proceeded with in the fall. Senator Sinclair certainly regarded this development as positive and of sufficient importance to agree that the report, which we have received today, should be forthcoming. Honourable senators, that certainly satisfied me and it has been strengthened by the report that Senator Doyle has given us today.

I can only congratulate the chairman and the members of the committee for having reached this result. I certainly am not as expert on this matter as are Senator Doyle and other members of the committee, but at least I can say that, as a result of their work, the consciousness and the understanding of the problem has certainly been increased among parliamentarians and, it is hoped, amongst the public also. I must say that I have a much better knowledge now than I had up to this point of the issues that are involved in this copyright legislation.

Therefore, honourable senators, I have no hesitation in agreeing that this matter be moved forward in the way recommended by the committee.

• (1430)

Hon. Sidney L. Buckwold: Honourable senators, as a member of the committee, I have a few words following on those of my leader. In my opinion the action taken by the Senate committee was well worthwhile. Bill C-60 in its orginal presentation had some serious problems associated with it. Without going into those problems, which has been done very ably by Senator Doyle, I think it is important to remind ourselves and the country that, as a result of the actions of the Senate and the committee in determining the future of this bill, the whole process was speeded up in the sense that the creators and users of various copyrights were brought together. When you think of 490 museums that faced problems and all the educational institutions, the schools and libraries that had problems, I am sure you will agree that bringing together all the parties enabled the difficulties that had been created to be more readily resolved. As has been expressed, all of us are delighted that we have been able to speed up the process. I hope we end up with a bill on phase two that solves the problems associated with the original bill.

Before I close I should like to thank the minister for her very cooperative attitude toward the committee, which was responsible for the speed with which the difficulties were resolved. She was certainly receptive to what the committee put forth and encouraging in her attempt to meet the problems facing the bill and some of the suggestions of the committee.

Motion agreed to and report adopted.

[*Translation*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—CONSIDERATION OF REPORT OF COMMITTEE—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Neiman, seconded by the Honourable Senator Cottreau, for the adoption of the Twenty-First Report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei, with two amendments) presented in the Senate on May 25, 1988.—(*Honourable Senator Hébert*).

Hon. Jacques Hébert: Order stands.

Hon. Jacques Flynn: Senator Hébert, when will you speak on this agenda item?

Senator Hébert: Well, if you insist—

Senator Flynn: I will certainly insist next week.

Hon. Eymard G. Corbin: In due course, Senator Flynn.

Senator Flynn: Well, Senator Corbin, you too will have your turn to speak on this item.

Senator Corbin: In due course, Senator Flynn. Be patient!

Order stands.

[*English*]

RAILWAY SAFETY BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator David, for the second reading of the Bill C-105, An Act to ensure the safe operation of railways and to amend certain other Acts in consequence thereof.—(*Honourable Senator Turner*).

Hon. Charles Turner: Honourable senators, I now move into the nitty-gritty of Bill C-105. They tell me that it is the greatest bill since the introduction of sliced bread by Garfield Weston. Honourable senators will note that clause 10 of Bill C-105 contemplates that a railway must file with the minister certain materials to accompany the request for the minister's approval in respect of certain alterations, et cetera. For example, subclause 10(3) requires the minister to consider certain requests submitted for approval by the proposing parties and in some cases subparagraph 10(3)(*b*)(ii) requires the proposing parties to file further particulars in respect of the original application. In our respectful submission, it ought to be required that these further particulars be filed with any objecting parties that have already filed an objection, as contemplated by the other subclauses of clause 10.

Now, honourable senators, let us move to clause 18 in Part II, for which I requested copies of the rules and regulations last week. Paragraph 18(1)(*c*) says in part:

> (1) The Governor in Council may make regulations . . .
>
> (*c*) respecting the following matters, in so far as they relate to safe railway operations, in relation to persons employed in positions referred to in paragraph (*b*):
>
> (i) the training of those persons, both before and after appointment to those positions,

Honourable senators, what does that mean? I presume it refers to the running crews, the engineer, the conductor, the trainman and the yard-man.

I wonder where they think we have been for 50 years. When you were hired on any railway, the old-timers taught you everything they knew, plus. If along the road you had to stop at a siding, the engineer would take the time to explain the various parts of the locomotive. At the end of one year you had to write a two- or three-day examination on the rules of operation and the parts of a locomotive. If you graduated up to second class, you would learn a little more about the locomotive, and then at the end of the second year you would have another two- or three-day examination. If you did not pass that, you were suspended. At the end of the third year you were given an examination on the rules.

Beginning in the days of the steam locomotive and continuing into the era of the diesel, you had to go to Toronto for that examination. You spent five days in the rule car on nothing but the locomotive, and then you spent five days on the rules. Those tests included an oral examination as well. You had to know the name of each part and how it worked, just like a doctor. You had to know what to do if such and such a part of the valve gear or the brake system broke down. You had to know what valves to cut out in order to proceed to the terminal, maybe at reduced speed, and to ensure that you still had a train and engine brake in order to stop in case of emergency.

If you failed to do the repair job correctly, you were summoned to the office and perhaps given 15 or 20 demerits. After you reached the level of 60 demerits, you were fired for two years. If your lack of knowledge was felt to be serious, you could be suspended immediately for six months, eight months or maybe a year. Even today, at the end of every three years there is a period where you have to go down to the rule car for an oral and written examination on the rules of the road. If you do not receive over 90 per cent, you are pulled out of service until you pass the examination.

Subparagraph 18(1)(*c*)(ii) reads:

> hours of work and rest periods to be observed by those persons,

What does that mean? I presume that when you travel to another terminal you have to be given time to catch up on your sleep.

The Honourable John Crosbie received a letter on January 8, 1988, from the United Transportation Union local of London, Ontario. The letter reads as follows:

> I have been instructed by the Local to make the following inquiry and request.
>
> Now that Deregulation has been passed into law and it seems easier to get a license for a trucking company, the membership would like to know, where your Government will get the funds for road repairs. They are well aware that the trucks are the ones that cause the largest amount of damage to our highways. The present and future additions, widening and new highways seem to them to be basically for the benefit of the trucks.
>
> The increase in trucking creates an increase in accidents, who is to be held responsible?

● (1440)

> What if any, does you or your Government see in the future for safer travel, both for the public and the trucking industry on our highway system?
>
> This Local would also like to request a full, final up to date copy of the Mandatory Rest Regulation, (the basic law and any supplements)

> Your consideration to these matters will be greatly appreciated.

So interested was Mr. Crosbie in safety in the railways, honourable senators, that he never even answered this letter.

Under this bill automatic, minimal medical standards are to be met. Again, I sent a copy of the drug and alcohol testing guidelines to the boys in southwestern Ontario. Their reply is as follows:

> After reviewing the material you sent me, over drug and alcohol testing and discussing it with several members of the Local, I have drawn the following conclusions.
>
> 1. The survey leaves a lot of doubt, as to its credibility.
>
> 2. One who likes an occasional drink, is now having his privacy invaded, let alone policed.
>
> 3. No mention of interview with Company officials in the survey, let alone the Minister of Transport's office and officers or the C.T.C. or R.T.C. or the Transport accident investigation board.
>
> If we must live with it then let it also apply to Government members, all the way from Prime Minister down.

Honourable senators, I might mention that they all drink, too!

The letter goes on to state:

> Reasoning, that these people have a greater control in decision making, which affects a larger number of citizens than an individual Railway employee. One must also remember, a person can be devastated in more than one way.
>
> So in view of these items and what appears an easy way out for both Company and Government bodies, I decline the proposals placed forward by the whomevers.
>
> I do believe we now have a system that seems to work satisfactory now.

The bill provides for the establishment of support programs for those persons and standards applicable to such programs. That means that, if you are caught drinking, you are enrolled in a course. Honourable senators, we believe in that sort of approach, but why should we single out a separate group of workers? If this sort of support program is to be provided to railway employees, then why should we not include airline and bus employees?

Honourable senators, I am also concerned as to the powers given to certain individuals under the proposed bill. For example, under the provisions of subclause 28(3), paragraph (*c*), railway safety inspectors are given the power to seize property. In my view that provision is open-ended in that it does not afford the affected person any reasonable protection in accordance with similar general protections in Canadian law.

Subclause 31(6) of the proposed act requires a railway safety inspector to provide a railway company and its supervisors with notice as to equipment not to be used or operated—for example, defective equipment—except under specified terms and conditions. There is no corresponding requirement for the railway safety inspector to provide the employees affected by such defective equipment, or their organization, with any notice of the order issued by the railway safety inspector.

I would submit that it is appropriate that this provision be amended to require that employees, who may have to operate such defective equipment or equipment under very strict terms and conditions, and their organizations, such as trade unions, receive copies of all such notices. In my view such a requirement would be in accordance with the safety provisions set out in the Canada Labour Code.

Honourable senators, the following questions come to mind: Who will the railway safety inspectors be? Where will they come from? What training and how many years of railway experience will they have had? How many inspectors will be hired? Will they be off the street—say, firemen or policemen? What city or railway terminals will they operate out of? Will the inspectors be on call 24 hours a day like railwaymen, or subject to call if they are working a spare board? These are questions that we need to have answered, and no doubt we will receive these answers when this bill is referred to committee.

Under clause 32 the minister is required to provide notice of orders concerning unauthorized or improperly maintained works to the railway company responsible for such work and to make any necessary orders that he deems appropriate. Once again, it is the minister who must give notice when he is of the opinion that such a railway company has contravened any regulations under this proposed act.

It is my submission that it is only fair and appropriate that employees and their respective organizations receive notice of such orders and that they be kept fully apprised of the developments throughout the process, since the employees actually operate such equipment.

Under clause 33 of the bill the minister has the power to make emergency directives and forward such to the railway company in question in respect of certain practices of the company.

Again, I would submit that the employees and their organizations have an equal right to be made aware of dangerous conditions existing on the railway, of questionable practices by their employer and of any orders issued by the minister in that respect. Furthermore, I submit that there should be an obligation on behalf of the railway company to notify its employees and trade unions of any dangerous conditions, commodities or practices as determined by the minister and the effect of such on the employment of persons who might be affected.

In the olden days, if a railway employee discovered a rough section of track, he would report the situation at the first available station or at the terminal. The dispatcher would then send sectionmen out to do the necessary repair work. In those days there was safety.

Honourable senators, clause 35 mandates physicians or optometrists to disclose potentially hazardous conditions of certain employees critical to railways operations. I harbour no illusions that our members, being from the running trades and

involved in the actual operations of the railway system, may, in fact, come under such designated positions.

In my view such physicians or optometrists ought to be independent of the railway companies. In terms of the requirement to report such conditions to the chief medical officer of the railway company concerned, I submit that it would be preferable that such information be forwarded to the Minister of Transport in his capacity as a more neutral and independent party.

There is concern about the use to be made of the confidential information between a patient and his doctor, which may be released by a patient's physician in accordance with the requirements set out under clause 35 of the bill. Why should a physician be allowed to release information to the company? Undoubtedly the doctor-patient relationship would suffer.

I believe there is potential for abuse in this requirement as set out under the aforementioned clause.

Subclause 35(3) states:

> A railway company may make such use of any information provided pursuant to subsection (1) as it considers necessary in the interests of safe railway operations.

Subclause 35(1) makes it a duty of a physician or optometrist to report any condition of a private patient who is a designated employee that is likely to pose a threat to railway operations by notice sent to the chief medical officer of the employing railway company. The association is not comfortable with the concept of legislation that interferes with an employee's confidential relationship with a private physician or optometrist. There is, however, a longstanding precedent, in the interests of public safety, in the airline industry. Our association strongly objects to the provisions of subclause 35(5), which makes medical and optometric information privileged information for disciplinary purposes.

Every three years an employee has to undergo a strict medical examination. If that employee has booked off sick for a week or two, the company has the right to send that employee to the CNR doctor; if the doctor is not satisfied, that employee is sent to a specialist. That employee is not permitted to work until the report from the doctor or specialist has been received. If the company is not satisfied with that, it has the right to send the employee to a medical CNR clinic. Why does the government want to put excess baggage into this bill?

Subclause 35(3) permits the railway company to use the medical or optometric information as the railway company considers necessary in the interests of safe railway operations. This, in practice, could be in the form of demotion or dismissal. Demotion and dismissal are both situations subject to the grievance procedures contained in all railway collective agreements with the railway unions. Subclause 35(5) makes the medical information privileged and specifically states that the information so provided by the physician or optometrist shall not be used in any proceedings, including disciplinary matters. In fact, none of the provisions of this clause of the bill provide for advice or notice to the employee by the physician or optometrist or the medical officer of the railway company of the medical or visual condition which may be used by the railway company for demotion or dismissal.

Pursuant to that clause, an employee could be advised by a railway company that he had been demoted or dismissed for alleged safety reasons, based on medical or visual grounds, without ever being given the specific information on which the demotion or dismissal was based. Is this Canadian law?

The grievance procedure and any subsequent arbitration process would also be frustrated by the privileged information status created by subclause 35(5) of the bill. Our association submits that this is a completely unacceptable provision. The employee would be deprived of his right to a fair hearing and the basic tenets of natural, Canadian justice. In fact, subclause 35(5) strictly construed would prevent an employee from using the information in his defence in a disciplinary proceeding for demotion or dismissal, even if he were in possession of the information, since the subclause states "and the information so provided shall not be used in any such proceedings." Even a person taken to court is allowed to defend himself!

The Canadian Railway Labour Association can reluctantly accept that, to ensure the highest degree of public and employee safety of railway operations, a medical or visual condition that could result in public risk should be corrected as soon as detected, even if it means, as proposed by the legislation, an exception to patient-doctor confidentiality. However, there must be adequate safeguards to protect railway employees from mistake or abuse. The right to know and the right to due process provided by the grievance procedure and arbitration in the collective agreement cannot be avoided by legislating as privileged the information on which demotion or dismissal is based. An employee has a right to know specifically why he is being demoted or dismissed. There can be no more basic right in our system of justice.

In our view, if a railway employee in a designated position—for safety reasons—on the basis of a medical condition or visual deficiency is unfortunately unable to meet the required standard as set out by the regulation to perform his duties safely, then clearly some action must be taken by the railway in the interests of public safety. There is, however, no need to proceed in a clandestine manner. If the facts support the action, there is no reason why the facts should not be disclosed, and, if necessary, tested by the normal collective agreement provisions.

The Canadian Railway Labour Association requests that the committee recommend amendments to clause 35 of the proposed act as follows:

> (1) to provide that when a Physician or Optometrist sends a notice to the Chief Medical Officer of the Railway the employee be so advised and be given a copy of the notice sent to the Chief Medical Officer of the railway.

We thank the minister for accepting that amendment.

Clause 39 appears to define an "authorized search" in very wide and ambiguous terms. In our respectful submission, this clause is much too general and appears to provide too much power and not enough protection of the rights of the individual

employees. The union is very concerned about the sweeping powers and the harsh provisions set out in the offences clause of Bill C-105, clause 41. In our view this clause of the bill, *vis-à-vis* employees of the railway companies, raises the possibility of elevating employment misconduct and offences to the level of offences under the Criminal Code of our country with the applicable criminal sanctions. This is an unprecedented and unwarranted intrusion into the employment relationship of the railway companies and their employees. We wish to emphasize the simple and undisputed fact that there is a dearth of substantial evidence to justify these draconian provisions.

The Canadian Railway Labour Association is opposed to the principle on which this clause is based. Mandated fines and prison sentences for railway employees who contravene regulations, orders, directives or rules is unnecessary, harsh, counterproductive and impractical. Why now, after 100 years?

The proposed legislation will permit the railways, either by the rule-making process or simply by reference, to introduce rules which only by degree are relevant to the safe operation of the railways. As we understand it, these rules, when incorporated by reference pursuant to the Railway Safety Act, will have the same force as a regulation. In addition, clause 46 of the bill exempts almost all orders, rules, et cetera, including rules introduced by the railways and incorporated by reference, from the provisions of the Statutory Instruments Act.

The legislation mandates fines and prison sentences for employees on conviction of any violation of these, in many cases, company rules. A minor company rule vaguely linked to safety can be given the force of law by incorporation by reference pursuant to clause 48, without being examined pursuant to the provisions of the Statutory Instruments Act. Our association finds this aspect of the legislation completely unacceptable.

It may be that the broad scope of clause 46 of the legislation—which deems the various regulations, orders and rules incorporated by reference to be statutory instruments for the purposes of the Statutory Instruments Act—is improper. The Statutory Instruments Act is a basic piece of legislation enacted for a specific purpose. That purpose, in our opinion, should not and cannot be obviated by the legislative drafting mechanism of "deeming a variety of regulations, directives, orders, et cetera, to be *de facto* statutory instruments." The basic intent of a statute of Parliament cannot be avoided by another statute by this simple drafting mechanism. The Canadian Railway Labour Association asks the Senate to investigate the legality and propriety of this aspect of the legislation.

● (1500)

The Canadian Railway Labour Association strongly recommends that the longstanding practice of enforcing the rules by the disciplinary procedures available in the normal employer-employee relationship be maintained. The addition of possible monetary fines and prison sentences proposed by the legislation for rule violations places railway employees in a double jeopardy situation. An employee will not only be disciplined by the railway or lose his employment for a rule violation, he will now also be subject to prosecution. In our opinion this is unecessary and draconian and should be corrected by the Senate.

The situation will be further exacerbated, since there is no provision in the legislation to protect a railway employee who brings an unsafe practice or a possible rule violation to the attention of his supervisor if the supervisor chooses to ignore the advice or orders the employee to continue with his duties in violation of the rule or unsafe condition. The employee is placed in a catch-22 situation. If the employee disobeys the instructions of his supervisor, he can be suspended and disciplined for insubordination—the arbitral concept of "obey and grieve later." If the employee, on the other hand, continues the unsafe practice or rule violation, he is subject to criminal prosecution. This could result in a monetary fine or even a prison sentence, pursuant to the Railway Safety Act. This is not only an unjust situation but one which, in the long term, is not conducive to operating efficiency or safety. The Canadian Railway Labour Association urges the Senate to examine this aspect of the legislation very closely and to introduce the necessary amendments.

Our recommendation is that monetary fines and imprisonment should, if required in the legislation at all, be strictly confined to convictions as a result of violations covered by the Criminal Code. We are not convinced that monetary fines constitute an effective way to ensure that the railways conform to the regulations and enforce an acceptable level of safety. If monetary fines are too low, then it could become more economical, in the long term, for the railways simply to pay the fine, when a violation is discovered, than to invest the capital on the technological devices or operational procedures required to ensure an acceptable level of safety. All of the employees think of safety now—they have done that for 100 years. I do not know why we need legislation like this.

Obviously, the government is convinced that railway safety can be ensured by the threat of monetary fines as a deterrent. In our opinion, based on this approach to railway safety, the fines proposed by the legislation for violation by the railways are not large enough to achieve the deterrent envisaged. Our association will leave it to the judgment of the Senate to decide what level of monetary fine for violations of the railway will prove to be an effective deterrent. In our opinion it is a judgment call.

We note that subclause 41(6) seems to contemplate an employee's being responsible for all reasonable costs and charges in the event that such employee is convicted of an offence that really could amount to no more than inadvertence or negligence on behalf of an employee in his everyday employment responsibilities. The logical extension of such a provision would place each and every employee of the railway companies in jeopardy of being responsible for the massive costs that are involved in almost any railway incident or accident, however minor. An employee could end up losing his home and his life savings and be placed in debt for the rest of his life as a result of a simple error in judgment while performing his everyday employment duties. Such a possibility

is, once again, unprecedented and unique in our labour relations and criminal law.

Clause 44 speaks to the establishment and composition of the Railway Safety Consultative Committee. In our view it is simply inequitable and indefensible to limit the participation of the representatives of the employees of the railway companies of this country to only three members on that committee.

We believe that the above-noted deficiency is compounded even further in clause 50 of the bill, wherein, although the minister is required to establish a committee to conduct a comprehensive review of the operation of this act within the next five years, there is no guarantee whatsoever that such a committee will even include at least one representative of the employees, their trade unions or the Canadian Railway Labour Association. Surely, at the very least, there ought to be some input from the Canadian Railway Labour Association if any comprehensive review of the legislation is undertaken.

At the present time there is in place a tripartite Rail Safety Advisory Committee to the Railway Transport Committee of the Canadian Transport Commission. Upon the abolition of the Canadian Transport Commission on January 1, 1988, this advisory committee was kept in place by the new transportation agency. The Rail Safety Advisory Committee was established as a result of the general safety inquiry conducted by the Railway Transport Committee in the late 1970s. A recommendation of this inquiry was that a working advisory committee be established with one representative from the railways, the unions, the Canadian Railway Labour Association and the commission staff, on a tripartite basis. This group was to be chaired by a commissioner of the Railway Transport Committee.

The group was established and called the Rail Safety Advisory Committee. As we understand it, this advisory committee is now chaired, on an interim basis until the Railway Safety Act is in place, by a director general of the National Transportation Agency. The function of the Rail Safety Advisory Committee is to examine proposed new or revised safety regulations before they are introduced to ensure input from all of the parties involved with the safety regulations on a day-to-day basis.

The Rail Safety Advisory Committee is supported by technical working groups that are also made up on a tripartite basis. The proposed new or revised regulations are directed by the Rail Safety Advisory Committee to specific working groups for examination by representatives from the railways, the railway unions and the commission staff, who have specialized knowledge in the particular areas of railway operation dealt with by the proposed new or amended regulations. It is in these working groups that the individual senior officers of the respective railway unions have their input, and they are experienced men, many with 25, 30 and 35 years' service.

● (1510)

The United Transportation Union and the Brotherhood of Locomotive Engineers are represented by senior officers in the working group that deals with specific regulations involving the employees they represent. The Signal and Communications Union and the Maintenance of Way Employees Union are similarly represented in a working group that deals with specific regulations involving the employees they represent. The Brotherhood of Railway Carmen is represented in a working group that deals with regulations pertaining to equipment maintenance and inspection. Following this process, the revised regulations are reported back to the Rail Safety Advisory Committee, with any disagreements or unresolved matters as a result of discussion in the working groups, for final resolution.

The object of the exercise is to ensure that there is adequate input from the various unions that represent the employees who must work under the regulations, and the railways that must comply with the regulations, before the regulations are actually put into place by the regulatory body.

All railway unions involved in this process are members of the Canadian Railway Labour Association, which acts as a coordinating body between the railways and the regulatory body. The railway unions, the railway companies and the regulatory body, based on over ten years' experience, have found this process meaningful and very productive. We have had reasonable assurance that the Rail Safety Advisory Committee process and the working groups will be continued when the new Railway Safety Act comes into effect. However, we want to make sure.

The Rail Safety Advisory Committee, in our opinion, does not serve the same purpose as that contemplated by the proposed Railway Safety Consultative Committee, as outlined in section 44 of the proposed Railway Safety Act. Our association would not support replacement of the Rail Safety Advisory Committee by the proposed Railway Safety Consultative Committee since, in our view, they serve two different and distinct purposes.

As we understand the proposed consultative committee, it will serve a broad and general purpose. The function of the consultative committee will be to monitor the general operations of the Railway Safety Act from the railways', the users' and the railway unions' point of view to ensure that the future changes and methods in operations are discussed and brought to the attention of the Minister of Transport, to enable his office to keep the legislation current by amendment, if required.

A serious omission in the consideration of the proposed consultative committee was that there were no representatives from public interest groups. However, I understand that has been corrected. In addition, although the Canadian Railway Labour Association, as already stated, is comprised of, and under the policy direction of, the senior officers of the railway unions that represent the employees covered by the Railway Safety Act, one nominee from the Canadian Railway Labour Association is not sufficiently representative of the railway unions. A more balanced railway labour input would be achieved if the representation was expanded to three. I have heard that they will agree with this.

Our association would certainly recommend an amendment to clause 44 of the proposed legislation to this effect. We would also recommend an amendment to clause 44 to include a nomination from a public interest group. Subclause 44(8) states that one member is to represent the public. The questions that arise are: What group of the public, and where does this member come from?

Clause 1 states that there ought to be three members representing organized labour, two of whom shall represent the Canadian Railway Labour Association. Once again, the question that arises is: What group of the organized railway labour unions would this third member be from?

We are concerned with clauses 55 to 59, dealing with the Criminal Code. The proposed amendments are to the existing sections of the Criminal Code applicable to the operation of motor vehicles, aircraft and vessels. The objective is to extend the provisions of these sections of the Code to cover the operation of railway equipment that moves over the rails of the respective railways under federal jurisdiction.

Our association understands that the reason railway equipment has not been included in these sections of the Code is that, unlike motor vehicles, aircraft and vessels, railway equipment operates over a private right-of-way owned by the particular railway company. The only occasions when railway equipment touches private highways and large or small roads is at railway crossings, which are protected by various levels of protective devices according to the particular requirements of the crossing.

In our opinion nothing has changed that would justify the proposed changes to the Criminal Code to include railway equipment. Therefore, we are unable to understand the rationale for the proposed amendments to the Code. The railway system will not become any safer than it is now by the proposed amendments to the Code unless the amendments are based on the simplistic argument that if motor vehicles, aircraft and vessels are covered by the Code, then why not railway equipment? Our association cannot accept this as sufficient justification for the amendments.

The number of crossing accidents that result from railway equipment failure or human error on the part of a railway employee have been negligible in the history of modern railroading. There may have been crossing accidents as a result of the installation of inadequate protective devices at a particular crossing. This, however, will not be corrected by the proposed amendments to the Criminal Code.

According to the Department of Transport, in the five years from 1983 to 1987 there were 1,318 derailments across the country, 423 collisions and 3,437 crossing accidents, resulting in 361 deaths.

During my 27 and a half years of railway experience I was involved in 15 crossing accidents, where seven people lost their lives. People are killed trying to race the train to the crossing. A young gentleman, while going to the market in Windsor, played with us for two and a half years. One morning, I am sorry to say, we nailed him; it was too late. While going over the railway crossing he took his time and did not make it.

We must look at the reasons why there have been so many accidents. There are thousands of level crossings in Canada. If we were to look at eliminating one crossing and replacing it with a subway, the cost would be between $5 million and $10 million. Another reason there are so many accidents is that perhaps the oldtimers are now retired or have passed on. These were men with 35, 40 or 45 years' experience, who, from practical experience and know-how, knew what to look for in heavy fogs, rainstorms or snowstorms. If you cannot see the road, then you must know the number of road crossings, the sounds of the rails when you cross the bridges, and the glimpse of the farmhouses you have passed. We were told by the oldtimers that these were the landmarks to look for. I must say if you are travelling at 85 miles per hour in a heavy fog or a snowstorm, and you are on a single track and have to meet a passenger train somewhere, you get a sinking feeling when you look for a farmhouse and it is not there. Therefore, experience is a great teacher.

• (1520)

Another good, solid reason for the number of derailments and accidents is the fact that the railways have reduced and cut back their expenditures for maintenance equipment and trackage. Because of government decisions to deregulate railway and truck transportation, it is increasingly difficult to compete with the Americans in shipping. Therefore, the railway companies, like any other companies, continue to keep the volume of traffic they have had in the past. They will try to compete by cutting back on the maintenance of their equipment and tracks. We will see more accidents, possibly more collisions, and more derailments because of cutbacks. The section men and the carmen are the bloodline of safety of all railways, yet we cut them back.

We all remember when railway crossing arms at all railway crossings had signs that clearly stated: "Stop, look and listen." In the interval of trying to raise the millions of dollars to eliminate railway crossings, why not convert all road crossings to stop streets? Doesn't that make sense? Seldom do you hear of a bus being hit at a crossing. Why? Because they stop and look both ways before they cross over. That is safety, in my opinion.

All Voyageur and Greyhound buses stop at all road crossings. Honourable senators, adopting that practice would save hundreds of lives and millions of dollars in broken equipment.

The only way to improve this situation—if you want to spend the money—is to eliminate all grade separation crossings in Canada, which is costly, or to continue to upgrade the protective devices.

We strongly recommend to the committee that the proposed amendments to the Criminal Code to include railway equipment be deleted on the basis that they are unnecessary and not justified either by sound reasoning or by evidence that would support the amendments on the basis of increasing rail safety.

Clause 58 of the bill seems to contemplate that any person involved in any manner whatsoever with the operation of railway equipment, and who is thereafter determined to be impaired by virtue of alcohol or a drug, is guilty of an offence under section 237 of the Criminal Code and may thereafter face the loss of his or her licence, or face some other penal measure related to such impairment. It is to be noted that this clause itself does not in any way attempt to distinguish between those actually involved in the operation of the train—for example, the locomotive engineer who is responsible for the actual power motor operation of the train—and the score of other individuals whose responsibilities only tangentially touch upon the operation, such as baggagemen, maintenance-of-way forces, and so on.

Clause 61 also seems to refer to the possibility of an individual employee's losing his right or licence to operate railway equipment in the event he is found guilty of an offence under section 237 or section 238 of the Criminal Code. Because of the harsh operation of this clause, it could result in an employee's losing his right to earn a living and support his family. At the present time, if a citizen of this great country that we call Canada is found guilty of an offence under section 237 or 238 of the Criminal Code, he or she may lose his or her driver's licence, but only rarely does that mean that the individual loses employment prospects.

When I first went on the railway in 1941, the rule was: "Using intoxicants or frequenting places where they are sold is instant cause for dismissal." That was plain. I knew what could happen if I went into a hotel—they could fire me. Under a revision of the operating rules in 1962, that rule was changed to: "The use of intoxicants or narcotics by employees subject to duty, or their possession or use while on duty, is prohibited."

I asked the president of the CNR, and the general manager and the vice-president, "What does 'subject to call' mean? Is it six hours, eight hours, ten hours or twelve hours?" I am not a medical person, but if you go for a medical do not drink beer, wine or liquor for at least 24 hours before you have the examination, because it will show in your blood stream.

In 1987 Mr. D.L. Fletcher, senior vice-president of operations of the CNR, once again issued a new General Rule G. It states:

> In addition to the requirements of this rule, employees must adhere to the following:

This is in addition to the others.

> Employees must not use any drugs or medication while on duty or subject to duty which may produce drowsiness or any condition affecting their ability to work safely. It is the responsibility of the employee to know and understand the possible effects of any medication or drug prescribed or chosen for use.
>
> Being under the influence of intoxicants, alcoholic beverages or narcotics while on duty, or subject to duty is prohibited.

Say that you have the flu or pneumonia and you are off work for four or five days. You go to the doctor and he puts you on medicine, such as tetracycline, which you take for ten days. If you go back to work on your six-to-eight shift, what happens? The drug will show in your blood. If they test you, they have you.

Clauses 59 and 60 clearly contemplate the use of breathalyzer tests, if so ordered by a peace officer, which would include a railway policeman. The range of railway employees subject to this provision is broad and all-encompassing. Our association cannot see the justification of this requirement. In our opinion there are adequate powers now to deal with the problem of alcohol abuse, which are to be further reinforced by the drug and alcohol testing provisions contained in section 18(1) of the proposed Railway Safety Act. It would appear that the government's approach to any problem is punitive. There has been absolutely no evidence of an abuse of alcohol by railway employees to a degree that would justify the proposed extensive amendments to the Criminal Code of Canada.

A review of all major and minor railway accidents in Canada over the past 20 years or more shows that few, if any, were discovered to be the result of the abuse of alcohol.

A recent survey conducted by the Minister of Transport of various groups of railway employees clearly indicated that the problem of alcohol abuse is minimal and that they are no better or worse than the rest of the population of Canada—according to a comparison-of-population study on the use of alcohol conducted by Health and Welfare Canada. The minor problem of alcohol and drug abuse in the railway industry can be resolved and controlled by methods less draconian than the Criminal Code. The major weapon to fight the problem is effective, joint, union-management employee-assistance programs. We believe in such programs. They worked very well in the old Michigan Central Railway. Our association, and all railroads, will have more to say on this subject later, when we appear before the Transport Committee.

● (1530)

Mr. Justice Foisy's investigation of the Hinton collision stated:

> No CN or Via employee involved in the collision was under the influence of alcohol or drugs at the time.

He did point out, however, that the man had only had a few hours' rest. What happens when war breaks out? There are only a few men to work on the railway. When the boss calls you on the telephone and says: "Are you coming to work or do you want me to suspend you?", you then have a decision to make. You are presented with an appearance sheet which says that you know the road you will travel over, that you have had sufficient rest and that there are no alcoholic beverages in your system. You then sign that appearance sheet.

During the war we were gone seven days a week, either 30 or 31 days a month. We were never at home. All I saw of my children at that time was the occasional look at them as they lay in their cribs. I remember on one occasion the boss called and asked me if I intended to go to work. I said I had been away for four days, that I would go to work, but that I refused

to sign the appearance sheet. I then went to Owen Sound, and when I came back two days later I found someone had signed my name to the sheet. That is how the work was performed during and after the war.

For 15 years I worked on the CNR. I never had a day off and we did not have holidays in those days. We had to go on strike in order to get seven days' holiday. The first year that we were given a week's holiday another chap and I went around to see how the oldtimers were taking it. They did not know what to do with themselves. That first year they worked the week and collected their holiday pay as well. The second year we put the heat on and said to them: "There is no point in having a week's holiday if you don't go away on holiday." The next year when we went around they were sitting on the veranda. They did not know what to do with themselves. Those oldtimers had worked 40 or 45 years without a holiday. This was a new thing to their system and they did not understand what it was all about.

Honourable senators, clauses 93 and 95 of the proposed bill appear to suggest that the company or commission may make bylaws subject to the provisions of the legislation that would thereafter become law under the force of the legislation. In our respectful submission, this seems to suggest that the railway companies would become self-regulators of the railway system, similar to the system utilized in the United States. This, again in our respectful submission, is quite apart from the history, public policy and best interests of Canadians, in terms of the safety of railway operations across our country. After all, from even a cursory review of the reports of the Grange or Foisy commissions it is quite evident that the railway companies have failed time and time again to put into effect, on their own initiative, adequate safeguards to guarantee the most optimum safety conditions in their operations of our railway systems. We respectfully submit that the railway companies have demonstrated in the past that they cannot be relied upon to self-regulate their operations adequately in respect of the very important area of railway safety.

History has shown that even the Canadian Transport Commission has had difficulty in either persuading or ordering the railway companies to promote or adequately introduce safe practices and technology in the most timely fashion. In our respectful submission, it will become much more difficult in this current era of deregulation to persuade the railway companies to regulate their operations in the most optimal manner in the very important area of railway safety. After all, the ultimate objective of Bill C-105 is to ensure the safe operation of the railways across our nation.

At the time of the wreck in Mississauga, I sat in opposition in the House of Commons. At that time I asked the now Deputy Prime Minister whether the train had been inspected on both sides when it went over the road crossing at Quebec Street, and he was not sure. I received good, reliable information that, of the two carmen who were supposed to be there to protect and inspect the train, one had had to go to Windsor because they were short a carman in Windsor. He had left the train before it arrived at and crossed over the crossing at Quebec. That particular carman had gone to the CNR and had gone "dead-end" to Windsor. Therefore, the Mississauga wreck could have been prevented if we had had that extra crew member inspector look at the train.

Honourable senators, I have tried to bring to your attention the concerns of the 60,000 workers employed by the three major railway companies and a number of smaller, short-line railways which operate freight or passenger trains from coast to coast in Canada.

At the report stage on third reading I hope to speak on railway employee stress as a safety factor, on employee assistance programs and on the subject of mandatory testing of employees and prospective employees for the use of drugs.

Hon. Mira Spivak: Honourable senators—

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

Senator Spivak: Honourable senators, I commend this bill to you for second reading.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Spivak, bill referred to the Standing Senate Committee on Transport and Communications.

[*Translation*]

EXCISE TAX ACT
EXCISE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jacques Flynn moved second reading of Bill C-117, to amend the Excise Tax Act and the Excise Act.

He said: Honourable senators, this bill provides for parliamentary approval of the proposed changes in federal sales tax and excise tax announced by the Minister of Finance in the budgets of February 18, 1987 and February 10, 1988, in the White Paper on Tax Reform of June 18, 1987 and in the tax reform document of December 16, 1987. Thus, the bill contains a number of important tax measures. However, I may point out that the increases in sales and excise tax provided under this legislation are part of the general tax reform program which will lead to very substantial reductions in personal income tax, totalling $12 billion over the next five years.

Obviously, no government likes to raise taxes. This bill clearly reflects the present government's commitment to better and equitable management of government operations and public resources. Overhead costs and operating and maintenance expenditures have been cut back over the past few years. Management of public finances has been improved. In this respect, the bill provides for accelerated remittance by taxpay-

ers of federal sales and excise tax. This measure will offset the impact of transitional tax reform measures on revenues by guaranteeing a one-time increase in revenue of $1.6 billion.

The main sources of additional revenue provided under the proposed legislation are as follows.

First, a 10 per cent tax on telecommunications services, such as telephone and telex services, with the exception of service charges for local residential telephone lines. The tax on telecommunication services was announced in the June 1987 White Paper as a transitional measure, pending phase two of the sales tax reform.

Second, an increase in the tax on cable and pay television services, from 8 per cent to 10 per cent.

Third, an increase in the sales tax on paint and wallpaper from 8 per cent to 12 per cent.

Fourth, extension of the federal sales tax to a limited range of snack foods that compete with similar products that are currently taxed.

Fifth, an increase in the federal sales tax on beer, spirits, wine and tobacco products, from 15 per cent to 18 per cent.

Sixth, a 4 per cent increase in excise tax on tobacco products. This was, of course, well before the two bills adopted by the House of Commons on third reading yesterday had materialized.

Seventh, an increase in the air transportation tax of $4 per ticket, to recover a greater proportion of the cost of the air transport program.

Eighth, a one-cent per litre increase in the excise tax on gasoline and aviation fuel.

These budgetary measures are expected to raise annual revenues of over $1.5 billion. They are needed in order to reduce personal income tax as announced in the documents on tax reform and to enable the government to continue its efforts to reduce the deficit. The increase in the sales tax on alcohol and tobacco announced last December is necessary to finance improvements in the tax reform program, especially the increases in child tax credits.

The bill also provides for a number of technical changes in the Excise Tax Act and the Excise Act.

The tax on motive fuels has been shifted to the manufacturer's level to resolve problems with administration and compliance.

The provisions on the refundable sales tax credit as it applies to certified institutions have been further refined to ensure that tax relief is restricted to non-profit organizations and to extend the exemption to goods purchased by organizations that provide administrative services solely to certified institutions.

A number of compliance provisions in the Excise Act have been revised to allow for the reduction in on-the-spot verification by excise officers of the manufacture of alcoholic beverages and tobacco products.

An important measure that I must draw to the Senate's attention is the proposed change to the fair pricing provisions of Section 34 of the Excise Tax Act. A recent decision of the Federal Court has called into question the power of the Minister of National Revenue to determine the value of a product for the purposes of sales tax when the taxpayer is not dealing with his customer at arm's length. The result has been a significant drop in sales tax revenue, since taxpayers reorganize their affairs to take advantage of this decision. The suggested amendment will make the tax apply to a "reasonable selling price" in transactions where the parties are not dealing at arm's length.

This change as well as the measures related to marketing and distribution charges, which will be the subject of another bill, should deal effectively with the problem of value for the purposes of sales tax until implementation of the second phase of consumption tax reform.

Another related temporary measure is the shifting of the tax to the wholesale level for such products as candy and snack food, pet litter and pet food, and some electronic equipment. For most of these items, the tax will be applied at the manufacturer's level once the proposal to deduct marketing and distribution costs is implemented.

Honourable senators, there are some tax breaks, some bright sides to this Bill. It contains measures to ease the paperwork burden on small businesses; more specifically, the ceiling for periodic and seasonal tax payments has been doubled. This change will allow some 2,000 taxpayers to pay their taxes on a quarterly, half-yearly or seasonal basis, rather than every month.

In answer to the concerns raised by the cultural community, original prints have been exempted from the federal sales tax.

Although this bill provides for an increase in the excise tax on gasoline, the fuel tax refund now given to primary producers will be increased by an equivalent amount. Therefore, the financial assistance given to farmers, fishermen, forestry workers and mine operators for their fuel costs will be maintained.

Although manufacturers generally pass on the tax increase on fuel sold after April 1 to farmers and other primary producers, the Minister of National Revenue does not have the authority to refund this tax increase to primary producers when they apply for a tax refund or when a registered seller made the refund directly to the primary producer. Therefore, this bill must be considered and approved with the least delay so that these tax refund applications can be paid as soon as possible.

• (1550)

[*English*]

Honourable senators, I conclude by reiterating that this is an important bill. All these measures which it enforces were announced by the Minister of Finance in his budget or by way of the other decisions I have already mentioned. It raises substantial new revenues by broadening the base of the tax system to include telecommunication services and increasing the tax rates for a number of goods and services. It is an important facet of the goverment's commitment to reduce the deficit and to balance the system by cutting personal income

tax rates and increasing child care benefits in the Income Tax Act.

If and when this bill receives second reading, I will move that it be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Some Hon. Senators: Hear, hear!

[*Translation*]

Hon. Fernand Leblanc (Saurel): Honourable senators, I wish to direct a question to the sponsor of Bill C-117. Senator Flynn listed the industries and manufacturers which are likely to be affected by this bill. I am not sure whether the printing industry is included in the bill or whether it has been set aside for the time being, in view of the fact that it is already subject to a tax rate of 12 per cent.

Senator Flynn: Honourable senators, I do not know whether I can provide Senator Leblanc with this information. I suggest it will be possible to provide him with a satisfactory answer as soon as the committee deals with this bill. At any rate, I take his question as notice and I hope I can provide him with this answer as soon as this bill has received second reading.

Senator Leblanc: Thank you, honourable senator.

[*English*]

Hon. Henry D. Hicks: In his discourse Senator Flynn mentioned the increases in revenue that would result from the passage of this legislation, and, if I understood him correctly, he used a figure of $12 billion over a period of five years.

Senator Flynn: Yes. I used the figure of $1.5 billion in additional revenues. The figure of $12 billion refers to the improvement in the income tax provisions under tax reform. So far as the additional moneys are concerned, the figure is $1.5 billion yearly. According to the figures with which I have been furnished, the reductions that will flow from the tax reform measures will amount to $12 billion in the next five years.

Senator Hicks: If revenue is increased by $1.5 billion a year in five years, that will produce an extra $7.5 billion. If the income tax taking is decreased by $12 billion, I do not see how the government can have collected any money that will enable the deficit to be reduced.

Senator Flynn: That does not mean that there will not be increases in the revenues due to other factors and a change in the rate. I do not know how these figures were arrived at, but I doubt that they cannot be reconciled, because over the years changes may bring in additional revenues with the same rate of tax, or a decrease in expenses may result from further measures taken to reduce expenses.

Senator Hicks: I understand that. I suppose what I am really questioning is the validity of Senator Flynn's argument, in which he tied the increased taxes to a reduction in income tax and said that this legislation would have something to do with the reduction of the deficit. Of course, that would have to derive from increased revenues from all sources.

I now understand the point. I do not think there is any point in following it up.

On motion of Senator Buckwold, debate adjourned.

CANADIAN ENVIRONMENTAL PROTECTION BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Robertson, seconded by the Honourable Senator MacDonald (*Halifax*), for the second reading of the Bill C-74, An Act respecting the protection of the environment and of human life and health.—(*Honourable Senator Kenny*).

Hon. Colin Kenny: Honourable senators, I rise today to speak on the subject of Bill C-74, respecting the Canadian Environmental Protection Act, or CEPA, as it is more commonly known.

Bill C-74 replaces the Environmental Contaminants Act and broadens its scope. The bill also provides a means of identifying, scheduling and controlling toxic substances in order to safeguard the environment and human health.

In addition to amending the Environmental Contaminants Act, Bill C-74 consolidates the Clean Air Act, the Canada Water Act, Part III, the Ocean Dumping Control Act and the Department of the Environment Act, subsection 6(2). Inasmuch as all of the consolidation is "old news," the thrust and substantive consideration of this bill should be directed at new methods of scheduling and controlling toxic substances.

On balance, it would be fair to say that Bill C-74 is a useful, small step forward in dealing with toxic substances. The name of the bill, however, is misleading since it does not address questions like acid rain, old toxic landfills, the "blob" in the St. Clair River, or cleaning up the environment in a general sense.

What the bill does do is set in place a framework to regulate chemicals on the marketplace, but the approach it takes tends towards the lowest common denominator. Rather than having the federal government take a strong central role in environmental protection, the bill calls for negotiations that will result in patchwork protection by each of the provinces so long as they have equivalent regulations to the federal goverment, but, unfortunately, the bill does not define what "equivalent" is.

The bill is weak in dealing with federal polluters. It is unclear what form of consultation is required with the provinces. It limits the rights of citizens to apply for an injunction to prevent a violation under the act and it fails to set national standards for environmental protection.

Honourable senators, I would now like, briefly, to look at these points in order.

Dealing first with federal polluters, the provisions of clause 54(1) allow the minister to regulate federal works or undertakings if two conditions are met: one, providing that no other act of Parliament allows for the making of regulations expressly to

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

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

● (1600)

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

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

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

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

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

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

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

And then it goes on.

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

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

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

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

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

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

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

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

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

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

work—or crazy quilt—of equivalency agreements requiring an army of federal-provincial negotiators.

No wonder some have referred to this as the "Meech Laking" of the environment.

Then there is the question of auditing and monitoring. Turning to Senator Robertson again, on page 3387 of the *Senate Debates*, she stated:

> First, equivalency agreements are not fixed in stone. If an individual jurisdiction fails to adhere to the letter and the spirit of the agreement, the agreement will be cancelled with six months' notice. Federal inspectors will then be on the job to ensure full compliance with all regulations under the federal act.

In addition to negotiating these thousands of equivalency agreements, the federal government is going to audit them and monitor them and report on them once a year. It is going to do all of this with 50 person years and a budget of $5 million. That comes to five person years per province.

How will it work out, I wonder. Will two people negotiate the hundreds of equivalency agreements required for a particular province and will the remaining three monitor and audit their performance, or will four people negotiate the agreements and the fifth monitor and audit?

My point is that with Bill C-74 we are getting a morass of federal-provincial agreements that will take forever to negotiate and will be impossible to monitor or audit with the limited staff available.

While the federal government is going to devote 50 person years and $5 million towards enforcement and monitoring, the Ontario government alone is currently spending $34 million and has 619 person years devoted to the task. Realistically, we have to ask: How many new substances can the federal government hope to cope with in a year under this legislation? How many individual agreements per province and per regulation can we realistically expect to see? How is the federal government really going to audit the performance of the provinces? How, indeed, is the federal government going to audit its own performance?

Turning to the question of the rights of citizens, on May 17 Senator Robertson commented on the desirability of an environmental bill of rights. Quite correctly, she noted that this bill permits any citizen to file a request in writing with the minister to add a substance to the priority substances list and that any two Canadians can petition the minister to investigate alleged infractions. But she did not mention that under Bill C-74 the Minister of the Environment is the only person in Canada able to apply to a court for an injunction to prevent or stop a potential violation of the bill.

Clause 135 of the bill reads:

> Where, on the application of the Minister, it appears to a court of competent jurisdiction that a person has done or is about to do or is likely to do any act or thing constituting or directed toward the commission of an offence under this Act, the court may issue an injunction ordering any person named in the application
>
> (*a*) to refrain from doing any act or thing that it appears to the court may constitute or be directed toward the commission of an offence under this Act; or
>
> (*b*) to do any act or thing that it appears to the court may prevent the commission of an offence under this Act.

On November 25, 1987, the minister, speaking for the legislative committee in the other place, said:

> I think it is terribly important that some of the enforcement clout of a bill involve the citizen.

If this were the case, and if any citizen were allowed to seek an injunction, we would, in fact, have a significant element in an environmental bill of rights. I believe that clause 135 of the bill should be changed accordingly. If we really believe that every citizen should be concerned about the environment, it seems only appropriate that any citizen should have the ability to seek an injunction to prevent an infraction before it occurs.

In conclusion, I should like to quote once again from Senator Robertson's speech on page 3387 of the *Debates of the Senate*, where she says:

> The Canadian environment is no longer pristine. Arctic haze hangs over the vast tundra regions and acid rain is killing our lakes and threatening our forests. Industrial pollution has spoiled our major rivers and is impairing water quality. Unenlightened agricultural practices are depleting and eroding valuable farmlands, and wildlife is in retreat as vital habitats are destroyed.

Unfortunately, the new elements of Bill C-74 do nothing to clean up any of these problems. Bill C-74 is a slow and cumbersome process of classifying and handling new toxic materials and it constitutes a very modest step in environmental regulation. I believe that the minister himself has come to realize this. Senators will recall that in December of 1986 he referred to CEPA as "the toughest pollution legislation in the western hemisphere." Then, on April 9, 1987, he said:

> Let us make the Environmental Protection Act as strong as we can now, while acknowledging our limitations and those imposed on us by a system that is far from ideal.

Finally, at a press conference in June of 1987 he referred to it modestly as "a first step toward cleaning up the environment."

Honourable senators, there are many other questions that a committee of this chamber will want to examine in relation to Bill C-74. They are too numerous to go into here, but, in particular, I would like to draw to the attention of senators the concern of the Cree Band from northern Quebec as it relates to their category 1A lands. I wish to serve notice that I will be providing to the committee that deals with this legislation a copy of their brief.

Hon. Brenda M. Robertson: Honourable senators—

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that, if Senator Robertson speaks now, her

speech will have the effect of closing the debate on the motion for second reading of this bill.

Senator Robertson: Honourable senators, I said almost everything I wanted to say about this bill a week to ten days ago. While it will be obvious to senators that I do not agree with all of the interpretations of my honourable colleague, Senator Kenny, we will have sufficient opportunity for the clarification of those misunderstandings, because I intend to move that the bill be referred to committee at the appropriate time.

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?

On motion of Senator Robertson, bill referred to the Standing Senate Committee on Energy and Natural Resources.

[*Translation*]

THE ESTIMATES, 1988-89

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) ADOPTED

The Senate proceeded to consideration of the twenty-first report of the Standing Senate Committee on National Finance (Supplementary Estimates (A), 1988-89), presented on Tuesday, May 31, 1988.

Hon. Fernand E. Leblanc: Honourable senators, a few words of explanation on the Supplementary Estimates (A) for 1988-89, which amount to $113.9 million. This is a special budget for one program only, namely the Special Canadian Grains Program. This program was established in 1986 and since then has continued to be applied by the Minister of Agriculture.

This budget arises from the fact that of the $800 million allocated last year for the 1987 crop, $113.9 million remained unused and the total assigned for that crop year was $1.1 billion. The National Finance Committee had already presented three reports on this program: the first on December 18, 1986; the second on March 12, 1987; the third on January 27, 1988. In each of these reports, the committee commented on some aspects of this program and its application in the 1986 and 1987 crop years.

Honourable senators who are agricultural experts can comment appropriately on this special program if they see fit when we discuss this program further at the time the bill to follow these supplementary estimates is presented, as is the usual procedure. Thank you for your attention.

On motion of Senator Leblanc (Saurel), report adopted.

[The Hon. the Speaker.]

[*English*]

AGRICULTURE AND FORESTRY

WESTERN CANADA—DROUGHT CONDITIONS—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Agriculture and Forestry (drought conditions in western Canada), presented on Tuesday, May 31, 1988.

Hon. Dan Hays: Honourable senators, with leave of Senator Barootes, in whose name this order stands, I should like to make a few comments on the report that was tabled last Thursday pursuant to the reference given to the Standing Senate Committee on Agriculture and Forestry on May 19.

● (1620)

We were very fortunate to have a timely appearance by the Minister of Agriculture before the committee on Thursday, May 26. As you all know from what has been said about this subject, it is considered to be an urgent matter. As such, it is important that it be commented on at the earliest possible date, and, indeed, such a request was made of me from the committee.

I do not intend to spend much time on the report itself, other than to say that, on an urgent basis, it asks the government to give assistance to livestock producers in the drought-affected areas of western Canada by developing a program to assist with transportation costs of forage, water, and livestock, if suitable pasture can be found at a convenient location.

The committee considered this at some length in the context of previous responses from governments to these kinds of difficulties and tied its recommendation to a previous program, introduced in 1980-81, called the Herd Maintenance Assistance Program. The committee said that the programs forthcoming should not be less generous than those previous programs. The committee was also at pains to urge that the government develop these programs only in consultation with provincial governments.

Finally, by way of explanation of the fourth recommendation, an alternative for livestock producers is that they sell their livestock in the face of no feed and no water. There is a hardship on livestock producers in the event they are forced to do this, because most of them would report their income on a cash basis. The total value of livestock inventory that was liquidated would be declared as income in the year of liquidation. Of course, if they sold their cows, sheep or goats, or whatever, because they could not feed them and could not restock their farms until a later date past the year end, they would be faced with a very large and unjust tax bill. A number of livestock associations and others have urged for some time, and the committee recommends, that the Income Tax Act be varied to accommodate this problem by allowing the farmer who has so acted—that is, liquidated his inventory—not to have to take that income into income for tax purposes until some later year, provided that it is within a reasonable time of the liquidation.

Tax matters are always complicated. It would be useful if farmers knew at the present time whether or not they could pursue this option, without having the risk of facing an unjust and unfair tax bill in the current year.

The problem of the drought has been well described in the media. Therefore, I do not need to spend much time on the drought in its human dimension. Let me simply say in that regard that there is now absolutely nothing more important to farmers in the drought-stricken area than the next rain. The next rain for most of them has not yet come. As I said, the minister was very prompt in responding to our request to appear. In fact, he indicated that, through the PFRA, for which he is responsible, the current situation is being closely monitored. In fact, there are funds available in the PFRA programs now. He told us that some $7 million is available for certain kinds of assistance to bring water to livestock, to create dugouts, to create water storage, in addition to programs that could be funded from a $7 million fund for soil conservation and related matters.

Yesterday the minister announced a $12 million increase in that $7 million fund in order that additional funding be made available, for a total of $19.2 million for the 1988-89 fiscal year. It is true that this program will be of assistance and will help producers deal with the crisis they now face.

As you will see from its report, the committee feels that much more should have been done. I believe the minister agrees with that. The minister, in his testimony before the committee, said:

I have been warning colleagues in the Cabinet about it—and he is speaking of the drought.

I thought we would be into stage two three weeks ago and stage three today.

Let me explain that statement. Under the PFRA system of monitoring and dealing with drought there are three phases that are considered to be important. The first phase is the shortage of domestic water, not only for livestock but for other users, including people. This stage has been under way for some time and, in fact, the program announced responds to the difficulty that occurs as a result of the phase one problem.

Phase two is the problem the Senate committee considers exists now; the committee considers it important that policies be brought forward to deal with the shortage of forage and the difficulty of knowing how one should respond to this problem in light of the current situation. I regret to say that the situation today has much more in common with what has been characterized as the "Dirty Thirties" than with the drought. The situation that we face today coincides with a difficult economic time for farmers that you will recall was discussed in this chamber by a number of senators in the context of a report on farm finance brought forward by the committee.

The minister thought that phase two would have commenced in terms of delivering assistance. I go to other evidence that he presented before the committee. He said that he would be meeting with the four provincial Ministers of Agriculture from the west. Indeed, he was asked by the Prime Minister to meet with them. He pointed out to us that he wanted to see representatives of the livestock industry at that meeting. I heard on this morning's news and I read in today's media that the representative of the livestock industry at that meeting was Mr. Stan Wilson, a past president of the Canadian Cattlemen's Association. Mr. Wilson indicated that it was his feeling that this matter of forage problems and so on should not be considered for two or three weeks, which would bring us to some time between June 13 and 20.

While for partisan reasons we might want to fault the minister on his concern and his willingness to act, I do not believe we have any cause to do so. At this point we are waiting for representatives of the livestock industry to say that there is indeed a crisis, which many of us on the Senate committee feel is now the case. Most of the members of the committee commute back and forth to that region and see that that area beneath the aircraft is as brown as it was in the middle of winter, when there was no snow. As well, the provincial Ministers of Agriculture must take some action.

We hope that the minister will take to heart our recommendations, together with his own concerns, and be prepared to act quickly. As I have said, the members of the committee felt that problems were upon us at this moment—they were not problems likely to materialize in two or three weeks, assuming there is no rain. The committee, in its deliberations, acted in a high-minded way and in a non-partisan way in considering this issue, which is of the utmost importance to western Canadian agriculture.

The committee will continue its deliberations pursuant to the reference given to it and pursuant either to this particular report now tabled or to a further interim report. I expect to have further advice for the Senate in due course.

● (1630)

Those are my comments at this time.

Some Hon. Senators: Hear, hear!

Hon. Efstathios William Barootes: Honourable senators, I wish to associate myself with the report that was just given to you and with the comments made by my friend and colleague, Senator Hays.

It is true that we had a most informative and helpful briefing from the minister and his colleagues and associates in the department and in the Prairie Farm Rehabilitation Administration. We did learn to our satisfaction that the PFRA and his people are on what I would call red alert; they are monitoring this closely. But the situation is not only serious; it is also deteriorating.

Furthermore, honourable senators, we know that the minister met yesterday—I believe in Calgary—with his counterparts in the four western provinces and some good was forthcoming from that. The announcement was, as Senator Hays has suggested, an additional $12 million, which virtually triples the amount of money available for the transportation of water. In addition to that, his presence did bring some water to Alberta, because some rain fell yesterday, though it was trivial and insufficient to get us out of this serious situation.

I was somewhat pleased—and I notice that my colleague was somewhat surprised—at the comment made by the past president of the Canadian Cattlemen's Association following this announcement. Concerning the $12 million for drought relief in the way of water supply, he said:

> This is one of the areas where we need some help.

That is, in water levels. He went on to say:

> ... dugouts and wells are very low, so whenever help is available, we accept it gratefully.

This is one of the times in this country that you notice that when something is done for western Canadians they express their gratitude. But he went on to say—and this was rather unusual:

> ... the Prairie region's livestock sector is already adjusting to this year's harsh conditions. They're not really dependent on government programs.

I do not know whether I can credit or qualify that statement, but I know this: The agriculture ministers of Alberta and Saskatchewan feel somewhat more strongly than that. They feel that this is timely help, but that it will not suffice. I am sure that, even with rains coming in the next few days, which we pray and hope for, this may not be sufficient. I look forward, as has said the premier of my province, to weekly and even daily announcements of further programs to assist in alleviating this condition. I look forward to hearing of more programs that could save the basic herds and the brood cows before they are sent to market, before they are slaughtered and before they cause a rapid drop in the price of beef on the Canadian market, which could be devastating. In the meantime, we realize, and others will document, that the cost of forage and feed is rising as farmers and ranchers scramble to get this feed.

Realizing that these things happen; that the mechanics and the bureaucracy of government move slowly; that something done today is unlikely to be seen in its realization at the end point for some time; that the machinery is slow and must be slow to ensure that everything is done properly and within the proper administration; and given the tardiness of instituting a program, the members of this committee felt that those recommendations should be given to the Minister of Agriculture now, today. Why? So that he and his officials can be stimulated to have the programs to be instituted—perhaps even the finance, if necessary—right at hand so that, when he says, "Go", they start from the starting blocks, and not as if they were starting into training as to which administrative instruments and ways they should utilize to execute these necessary measures.

It is in the hope of putting a program in place expeditiously and quickly, if it is necessary in the next few days and weeks—and I believe in my heart that it will be necessary to do something more in the future—that we have associated ourselves together, not as partisan, political people but as friends of agriculture and the agricultural industry in this country.

Hon. H.A. Olson: Honourable senators, I want to participate in this debate briefly today. In a few minutes I will adjourn the debate until tomorrow so I can have an opportunity to check with certain people in western Canada who I think are knowledgeable about this situation.

I am disappointed that the ministers' meeting in Calgary yesterday could not come up with a more comprehensive program than simply to say that "We will do a little more"—in fact, quite a lot more; I admit that—"for water development." As has been pointed out, the new $19.2 million budget was originally funded at $7.2 million. There are thousands of people out there already who are in great difficulty.

While I was listening to Senator Barootes I could not help but agree with the way that he put it. He was not being all that critical of his own party and his own government, although you could read into it that he believed they should have acted before now. If there had been another great Conservative here today, John George Diefenbaker, he would have pointed his finger at the government and said, "Justice delayed is justice denied."

We have been waiting for days, weeks, for this government to act! So they had a great meeting yesterday. After all the fanfare of going through several days of telling us that the Prime Minister had ordered his Minister of Agriculture to call a meeting of all the ministers in western Canada, and so on—after all that is finished, they come along and say, "We will help you develop some water supplies and that sort of thing." He then said something that surprised me. He said, "It has not reached crisis proportions yet."

I heard the Minister of Agriculture in the committee. I believe sincerely, as Senator Hays and Senator Barootes have already pointed out, that he wants to move. He can see that there is already a problem, so I am not too critical of him.

● (1640)

However, in my opinion, and as Senator Barootes pointed out, he is listening to the wrong people out in the west. When the minister says that there is not a crisis now, but that there might be two or three weeks from now, I think that indicates that he is listening to the wrong people. I personally checked with some of the hay dealers out west and they are not taking any more orders. They have sold to their regular customers all the hay that they had.

In any event, I do not intend to explore this subject any further today, because I need a little more time to check around. However, I intend to come back tomorrow with some of the facts from the people who are living right in the affected areas. Therefore, I wish to adjourn the debate until tomorrow.

On motion of Senator Olson, debate adjourned.

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

MOTION TO INSTRUCT NATIONAL FINANCE COMMITTEE TO DIVIDE BILL C-103 INTO TWO BILLS—POINT OF ORDER—SPEAKER'S RULING RESERVED

Hon. B. Alasdair Graham, pursuant to notice of Tuesday, May 31, 1988, moved:

> That it be an instruction of this House to the Standing Senate Committee on National Finance that it divide Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, into two Bills, in order that it may deal separately with Part I, entitled the Atlantic Canada Opportunities Agency, and Part II, entitled Enterprise Cape Breton Corporation.

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

Hon. Jacques Flynn: Honourable senators, I rise on a point of order. It may be that I do not understand exactly what Senator Graham has in mind. However, when his motion says that he would like the committee to be instructed to divide the proposed legislation into two bills, I would ask whether it is for the purpose of the study by the committee, in order to have the committee report separately on Part I and Part II of the bill, or does he have in mind the technical division of one bill into two bills? What is the exact operation the honourable senator has in mind? Perhaps he could describe the process to us.

Senator Graham: Honourable senators, if I were allowed to speak on my motion, I would explain what I have in mind.

Senator Flynn: I am willing to allow the honourable senator to explain that point. However, I must say that if what he wants done is a technical division of the bill by the committee, then I will reserve my right to rise on a point of order.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I think that, if the motion is put and the debate commences, which will happen if Senator Graham speaks, it will then be too late to raise the point of order. I believe that if the motion is in order then it must be put. If there is a point of order raised against the regularity of the motion, then we ought to debate that and settle it now.

Senator Flynn: Honourable senators, Senator MacEachen is again playing a game, which I have seen him do before. Now he says it is too late to raise a point of order, that the question must be put before anyone rises on a point of order. In fact, the honourable senator was just rising to speak. In fact, he would not have been willing to speak at all had the motion been carried. Therefore, I raised the point of order. It depends on the meaning Senator Graham puts on this motion, and I cannot see why I am too late to be doing that. I do not know when otherwise I could have done it.

Senator MacEachen: I believe that Senator Flynn has misunderstood my comment. I agree totally that Senator Flynn has the right to raise a point of order as to the regularity of the motion and that we could have a discussion on that matter.

However, I think I am on solid ground in saying that if the motion is put and debate is commenced on the motion, then it is inappropriate to raise a point of order at that stage, because the motion is in the possession of the house; it has been moved and the debate has commenced.

Senator Flynn: Do you mean it is too late?

Senator Doody: No, not yet.

Senator MacEachen: No. If the honourable senator wishes to raise a point of order on the regularity of the motion, I think it ought to be dealt with now. In fact, I would say that the honourable senator has the full right to deal with a point of order at this point.

Senator Flynn: Honourable senators, as I read the motion, it indicates to me that Senator Graham wants the committee to prepare two bills instead of the one that has been referred to the committee. However, if Senator Graham tells me that that is not what he has in mind, and he is willing to amend his motion to say that what he wants the committee to do is study the bill as it was referred to it and report separately on the two parts—in other words, report separately on each part of the bill—then, of course, the committee can do that, even without any instruction from the Senate.

However, if what Senator Graham has in mind is a splitting process, and he is saying to us: "I want you to make two bills out of the bill that has been referred to the committee," then I think that is a procedure that is totally irregular. In any event, it seems to me that it is too late, because the bill as a whole has been referred to committee. To ask the committee to do what this motion suggests is inappropriate, because the Senate has already adopted the bill at second reading stage. This motion should have been put before the motion for second reading was put.

● (1650)

If it is the purpose of Senator Graham to have the bill split in two, I can tell him that this procedure has never been followed, to my recollection. Such a procedure has been followed in the House of Commons, where the Speaker has been asked to rule that it is irregular for the government to include in two bills two matters that should be considered separately. In that situation the request to split is usually made right at the beginning, not after the bill has received second reading. I believe it says in *Beauchesne's* that this procedure is not acceptable, because it is something that must be decided by the Senate, not by a committee.

I have here a precedent found in Erskine May's *Parliamentary Practice*, Twentieth Edition, at page 502. It is found in a note at the bottom of the page. It refers to an incident that occurred a long time ago. However, as I have said, we have not been able to find any precedent or any recent occasion that would resemble what this motion is instructing the committee to do. The note refers to an incident in 1852, and we do not know whether there has been any similar incident since then. It reads:

> Only one attempt has been made to divide a bill brought from the Commons . . . and this was defeated. But the instruction was objected to on its merits as well as on its unprecedented nature and the technical difficulties it would create, so that the propriety of dividing a Commons bill has not been decided. The Government of India Act

> 1935 was divided, between the date of Royal Assent and the date of coming into operation, by a separate Act—

That is the only precedent and the act involved was divided by the government.

I do not see what the honourable senator wants. Would he have the committee give a separate number to each bill? Would he have an introduction in each bill, as well as provisions for Royal Assent and proclamation? He is asking the committee to do something that is very technical, and not within the competence of the committee.

In any event, it seems to me that, if Senator Graham has in mind something that would require the Senate or the committee to make a decision on each part of the bill, that could be done in committee, without any instruction. The committee can decide whether it wants Part I to come into force, or whether it wants to strike out Part I or Part II, or whether it wants to amend Part I and Part II, or whether it wants to recommend that Part I be adopted and that Part II not be adopted. This can be done by the committee. It seems to me that the only problem Senator Graham faces is the suggestion of this very technical process of splitting the bill, which, I think, comes too late and is unprecedented.

Senator MacEachen: Honourable senators, I believe that Senator Flynn has identified the purpose of the motion put forward by Senator Graham; namely, to divide the bill into two bills. That is what is intended. Senator Flynn has suggested that it would be within the power of the committee to defeat, for example, Part I of the bill. In a sense, that suggestion gives me the encouragement to add that if the committee has the power to extinguish and defeat totally Part I of the bill, then it is not asking a great deal to have the committee deal with the two parts of the bill separately by having them split into two separate bills, which would proceed from the committee independently, one from the other. In that process the committee could easily sever the Atlantic Opportunitites Agency and put it in one bill and put the Enterprise Cape Breton provisions in another bill. Whatever consequential amendments in Part III are required in the two bills can be related to the appropriate bills I have described. One of the criteria put forward by the authorities, particularly Erskine May, is that the bill be such that it can easily be severable. I have never seen a bill that is more capable of being severed into two parts than this one.

I want to follow up on the procedural argument made by Senator Flynn, but before I do so I would make the following point: that the purpose of this motion is to provide an opportunity within the committee to deal with two separate subjects, each on its own merits. It may be possible for both the committee and the Senate to deal more quickly, for example, with the Atlantic Canada Opportunities Agency bill than with the Enterprise Cape Breton bill, which has, to some of us, profound difficulties. It ought not to be viewed on its face as an obstructive measure. It can be regarded as a facilitative measure, but that is really not on the procedural point and could be debated under the motion itself.

[Senator Flynn.]

Senator Flynn has said that there is no precedent in the Canadian Senate for dividing bills, and I accept that point readily. I have not been able to find a precedent where the Canadian Senate has given an instruction to a committee to divide a bill. He has pointed out a case in the British House of Lords which I have examined. In that case a motion was made by the Marquis of Salisbury, a prominent Conservative no doubt, to divide a bill. Whoever acted as Speaker in that chamber put the motion. There were no procedural objections. The motion was debated extensively and the lords decided not to authorize or instruct the committee to divide the bill. There is no question that the motion itself was in order, because it was put and debated and divided upon. Therefore, the motion was in order. This motion, if it is found to be in order, can be accepted, or defeated, as was the case in the House of Lords.

● (1700)

I say to Senator Flynn that it is without precedent in the Canadian Senate. Some things are happening presently in the House of Commons that are without precedent. The Leader of the Government, himself, in the House of Commons said that the motion on abortion was breaking new ground; but I would put that to one side. If we look at our own standing rules of the Senate, the first rule states:

> In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall, so far as is practicable, be followed in the Senate or in any committee thereof.

Therefore, the practices and usages of the House of Commons are quite relevant, applicable and constitute precedents for the Senate of Canada.

Before going into precedents from the House of Commons, may I just refer to a number of authorities who unanimously hold that after second reading an instruction may be given to a committee allowing it to divide a bill. For example, *Beauchene's* Fifth Edition, at page 230, states:

> An Instruction is required to enable a committee to divide a bill into two or more bills . . .

Further, *Bourinot*, Fourth Edition, at page 525, states:

> A committee may, in conformity with instructions, consolidate two bills into one or divide one bill into two or more . . .

Senator Flynn: In the House of Commons.

Senator MacEachen: Senator Flynn interjects and says, "In the House of Commons." Precisely: "In the House of Commons." Rule 1 of the Senate tells us that the practices, usages and precedents of the House of Commons can guide the Senate. Rule 1 of the Senate states that, where there is no provision in our rules or practices, the rules and practices of the House of Commons are precedents that constitute guidance to us.

Senator Roblin: Since when?

Senator MacEachen: That has always been the case in the Senate. Senator Roblin said, "Since when?" I cannot answer

that, but I presume that has been the situation since the rules of the Senate were adopted.

Senator Roblin: Honoured in the breach, not in the observance.

Senator MacEachen: Honourable senators, I refer to a further useful reference from the authorities, and that is *Erskine May's*, Nineteenth Edition, where, at page 473, it states:

> After second reading, an Instruction to the committee on a bill may be moved . . .
>
> Instructions are of two kinds, permissive and mandatory.
>
> Permissive Instructions.—The object of a permissive instruction is to confer on the committee authority to do something which, without the instruction, they would have no power to do, for example, to divide a bill into two bills . . .

I do not intend to go into the limitations which have been cited by Beauchene and Erskine May as to when it is technically possible to divide a bill. I do not think they are relevant, because, if ever a bill were separable into parts, it is this particular bill. However, anyone who wishes to follow that up can do so by looking at these authorities.

Honourable senators, I refer briefly to Canadian precedents. In 1956 in the famous northern pipeline debate a motion was moved empowering the Committee of the Whole to divide a bill, and, obviously, a point of order was raised.

Senator Flynn: I did not say—and I do not think it serves any purpose to say—that it was done in the House of Commons. It is a question of the decision of the Speaker of the other place or of the initiative of the government. I do not deny that this has been done in the House of Commons. I am asking for a precedent in the Senate or at this stage.

Senator MacEachen: I have already acknowledged, honourable senators, that there is no case that I can find in the Canadian Senate where a bill has been divided. I acknowledge that, but then I go on to read to the honourable senators rule 1, which states:

> In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall, so far as is practicable, be followed in the Senate or in any committee thereof.

It states quite clearly that what happens in the House of Commons can be followed in the Senate. It says, ". . . be followed in the Senate." Rule 1 states that precedents from the House of Commons are totally applicable, totally relevant and of total guidance in this situation.

If I may continue my exposition of the pipeline debate, a motion was moved empowering the Committee of the Whole to divide the bill. Speaker Beaudoin stated:

> There is no question that this motion is in order because it is an instruction to the Committee of the Whole that the bill be divided in two.

Senator Flynn: That was before second reading.

Senator MacEachen: We have an earlier example in 1948 when, after the Canadian Wheat Board Act was given second reading, it was moved that there be "an instruction to the Committee of the Whole that they have power to divide Bill 135 into two bills"—and this should please our western colleagues—"in order that one might deal separately with oats and barley."

Senator Flynn: I never heard of it.

Senator MacEachen: The motion was put. The motion was moved, in fact, by the Right Honourable C. D. Howe. Suprisingly, it was defeated by his own party. It was put by the Speaker and defeated. The only minister that I could find who supported him was that incorruptible Nova Scotian, the Right Honourable J. L. Ilsley. It is clear that we have had instances in the House of Commons where motions have been put to divide a bill and that they are in order. Those precedents are applicable in this body, according to rule 1 of the Senate.

Senator Flynn has said that, even if it is appropriate, it is too late. I disagree with that quite completely, because in our own Senate we have given instructions to committees after they have been well into their work. The cases I have in mind are instances where motions were made with respect to the transportation bills and the drug bill. In these cases an instruction was moved and carried in this house, asking the committees to report by certain dates on bills which they were dealing with and which had been committed to them much earlier. But, in any event, the case is not in doubt at all on that point, because *Erskine May's* makes it quite clear in the case of bills, and I quote from the edition to which I have referred, at page 517:

• (1710)

> In the case of bills referred to standing or select committees, an instruction can be moved as soon as the bill has been committed, (*c*), or subsequently (*d*).

Senator Graham gave notice of his motion to give an instruction immediately on the day that the bill was given second reading and committed. Under our rules there is a one-day notice required to give an instruction to a committee. So the logic of the case is clear; a senator puts his notice of motion, it comes up for debate and it is dealt with after the bill has been committed to the committee. That is in accordance with logic and our rules. It is in accordance with the citation from *Erskine May's* and is in accordance with the practice adopted by this Senate just a year ago in giving an instruction to two committees long after the Senate had given second reading to the bills.

I think the case is clear cut. We would not have taken this action, honourable senators, unless we had been on totally solid ground.

It is interesting that Senator Flynn himself cited a case emanating in the British House of Lords which is totally in accordance with the motion that has been put forward today by Senator Graham. I am surprised that there is this procedural fuss, because, if this motion were held to be irregular, such a ruling would dismiss the precedents of the Canadian House of Commons, the British House of Lords, rule 1 of the

Senate and the precedents in our own Senate with respect to the instruction given to committees after bills had been committed.

Hon. John B. Stewart: Just a few words on this point. The Senate is, of course, master of its own proceedings. Moreover, there is no established prohibition that can be cited against Senator Graham's motion. That being the situation, we have to ask what reason there would be for a prohibition, if there were one.

I will not say anything about what can be done in the House of Commons; Senator MacEachen has established that a bill can be divided there, and I think Senator Flynn does not dispute that at all.

I suppose the basic argument against dividing a bill in the second chamber, the upper house, would be that it would disturb a decision of the House of Commons; however, every time the House of Lords or the Senate amends a Commons bill it disturbs or alters the bill that was passed by the House of Commons. So that argument does not help those who oppose Senator Graham's motion.

The fact that there is no constitutional principle that would be offended by a decision to divide a bill that already has passed the House of Commons is borne out eloquently by the precedents from the British House of Lords. Precedents are cited in *Erskine May's*, and the fact that they go back a long way shows that this is no frivolous, modern innovation. There is the precedent of the Bank of Ireland Bill in 1808; there is the precedent of the Municipal Corporations (Ireland) Bill in 1836; and there is the precedent of the Ministry of Transport Bill in 1919.

Some Hon. Senators: Come on!

Senator Stewart: It is wonderful how honourable senators adjust their viewpoint. When something old favours them, its age proves that it is fundamental, it supports an age-old principle; but when something old does not favour them, they guffaw. The truth of the matter, as Senator MacEachen has said, is that it is quite unusual for a second chamber to divide a bill. There is no contest on that point, but there are notable examples of motions to divide bills having been accepted as in order by the British House of Lords. This demonstrates that it is not against constitutional principles to divide a bill.

It is important to put the words that appear in *Erskine May's* on our record, because, although Senator Flynn attempted to do so, I think because he was doing it from memory it did not come out quite correctly.

Let us take what Erskine May says with regard to the 1919 or Salisbury precedent. Erskine May states:

> An instruction was moved on 29 July 1919 to the committee on the Ministry of Transport Bill, which originated in the House of Commons, to enable them to divide the bill into two bills (*e*). This proposal was objected to on its merits and it was also stated that no precedent could be found for so dividing a bill which had been received from the Commons.

[Senator MacEachen.]

I interject that that is the argument that was made. It was not challenged on the ground that it was out of order. They said that they could not find the precedents, although *Erskine May's* shows that there were precedents. I go on quoting:

> Although the defeat of the Instruction on a division cannot in itself be said to preclude the possibility of a bill being divided in the Second House (since the motion was not ruled out of order), it is clear that considerable technical difficulties would arise if the course were adopted.

In other words, *Erskine May's* is saying that there is no question but that the motion to divide the bill was in order. That was not challenged at all. Good arguments, however, were made that there would be practical difficulties if the bill were to be divided, and it was on that ground, the latter ground, not the ground of procedure, that the motion was defeated.

If the motion had not been in order, it would not have been defeated, because it would never have been put to a vote of the house.

The question of procedure is clear. However we want to decide on the merits of Senator Graham's motion. That motion clearly is in order.

Senator Flynn: Honourable senators, I have only one or two words. Senator MacEachen quoted a lot of precedents—none after second reading.

Senator MacEachen: They were all after second reading.

Senator Flynn: No, they were before second reading.

Senator MacEachen: No, you are totally wrong. A bill does not go to committee until after second reading takes place.

Senator Flynn: I do not recall having seen any precedent for that. You quoted cases in the other place, but none dealt with the situation after second reading.

Senator MacEachen: Yes, of course—a bill is not sent to committee unless it gets second reading.

Senator Flynn: Yes, I know, but we give instructions to the committee before second reading.

Senator MacEachen: No, no, no!

Senator Flynn: Well, anyway, the point is that the Senate has given approval to the bill, as such. If it had been split, we would have had two questions to decide instead of one. We would have made a decision on one and perhaps another decision on the other; that is obvious. We have already decided on both parts of the same bill. But, by giving instructions to the committee to split the bill without the Senate's having given second reading separately to each of these bills, they would be before the committee without approval on second reading. To me, this is a question of procedure. This has to be done in the house and the decision cannot be made by a committee. As Senator Stewart has mentioned, May's *Parliamentary Practice* suggests that it is technically difficult for a committee to draft two bills from one.

Senator Stewart: Honourable senators, I think Senator Flynn misunderstands what Erskine May is saying. Let me read what is said with regard to mandatory instructions. *May's* holds that an instruction must be given after second reading:

> This form of instruction may be moved at the conclusion of the second reading, to which assent may have been given with the knowledge that such an instruction would be moved.

Therefore, an instruction to a committee is moved after the second reading has been voted on by the house, and that is the time at which it should be moved, on the basis of common sense.

Hon. Gildas L. Molgat: Honourable senators, while *Beauchesne's* is not always crystal clear, in this case it is very direct. I refer to the Fifth Edition, page 230, where, under "Proceedings on Public Bills", "Admissible Instructions", citation 761.(2) states:

> *Division of bill*—An Instruction is required to enable a committee to divide a bill into two or more bills, but such an Instruction is in order only if the bill is drafted into two or more distinct parts or else comprising more than one subject matter . . .

Honourable senators, this bill is clearly divided into two parts.

Turning to the previous page, citation 759.(1) states:

> The time for moving an Instruction is immediately after the committal of the bill . . .

In other words, after the bill has been committed—

Senator Flynn: It is too late now. The bill has been referred to the committee.

Senator Molgat: That is what has to be done. The "committal of the bill" means second reading. This citation states:

> The time for moving an Instruction is immediately after the committal of the bill, or, subsequently, as an independant motion. The Instruction should not be given while the bill is still in the possession of the House, but rather after it has come into the possession of the committee.

Could there be anything clearer in English than that instruction?

The Hon. the Acting Speaker: Honourable senators, Senator Flynn has asked the Chair to rule on the acceptability of this motion. I will consider the point raised by Senator Flynn and that raised by Senator MacEachen and will rule later.

Senator MacEachen: Honourable senators, are we to take it that we will get the ruling tomorrow, or will we return this evening for it?

The Hon. the Acting Speaker: The ruling will not be given tonight; it will be given tomorrow.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, June 2, 1988

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

Prayers.

WESTERN ARCTIC (INUVIALUIT) CLAIMS SETTLEMENT ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons to acquaint the Senate that they had agreed to the amendment made by the Senate to Bill C-102, to amend the Western Arctic (Inuvialuit) Claims Settlement Act.

[*Translation*]

WESTERN ECONOMIC DIVERSIFICATION BILL

REPORT OF COMMITTEE

Hon. Fernand-E. Leblanc, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, June 2, 1988

The Standing Senate Committee on National Finance has the honour to present its

TWENTY-SECOND REPORT

Your Committee, to which was referred Bill C-113, an Act to promote the development and diversification of the economy of Western Canada, to establish the Department of Western Economic Diversification and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Tuesday, May 17, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

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

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

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-THIRD REPORT OF COMMITTEE PRESENTED

Hon. Roméo LeBlanc: Honourable senators, in the absence of the chairman and the deputy chairman, I have the honour to present the fifty-third report of the Standing Committee on Internal Economy, Budgets and Administration.

(*For text of report, see Appendix "A", p. 3580.*)

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

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

AIR CANADA PUBLIC PARTICIPATION

NOTICE OF MOTION TO AUTHORIZE BANKING, TRADE AND COMMERCE COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-129

Hon. Finlay MacDonald: Honourable senators, I give notice that on Tuesday next, June 7, 1988, I will move:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of the Bill C-129, An Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public, in advance of the said Bill coming before the Senate or any matter relating thereto.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have the adjournment motion here, which is for the usual time on Tuesday next. I am in a quandary. I would like to know what His Honour the Speaker intends to do with regard to the decision on yesterday's procedural discussion. It might be that the Senate will want to sit tonight or tomorrow or Monday. I am not suggesting at this point that it should. I am simply saying that I would rather reserve this and sense the mood of the Senate with regard to its intention for the next little while. Therefore, with the agreement of the Senate, I would ask leave to revert to Notices of Motions later today.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I must say that I do not understand the

difficulty which the deputy leader has inferred. I just want to be enlightened; that is all.

Senator Doody: I can quite understand that. I have been told that the decision of the Chair respecting the procedural discussion we had yesterday with regard to Senator Graham's motion may be deferred until a later date; in other words, it may not be given today. In light of the fact that it was suggested yesterday that we might return last night to hear the decision, if it was ready, it seemed to me that it might be just as appropriate to return tomorrow or Monday or whenever. I am not suggesting that we do that. I am simply saying that we should leave open the option to do so, if the Senate desires to return or His Honour has his decision ready.

Hon. Charles McElman: You said that with a straight face, too. What did it mean?

The Hon. the Speaker *pro tempore:* Honourable senators, I was absent yesterday. When I arrived this morning, I was asked to chair the sitting this afternoon. I looked into the proceedings of yesterday. A very serious point of order was raised during the session yesterday. I have not had time to look into the citations given by Senator MacEachen, Senator Flynn and Senator Stewart about the acceptability of the motion of Senator Graham. I ask your indulgence. I will not be able to give my decision this afternoon. Over this coming weekend I want to study the precedents cited yesterday, and I will be in a position to give you my decision at the sitting next Tuesday afternoon.

Senator MacEachen: Honourable senators, I do not know whether it is appropriate to make any comments at this stage, but I must make a comment based upon what occurred in the Senate yesterday, namely, that the Honourable the Acting Speaker stated as follows:

> Honourable senators, Senator Flynn has asked the Chair to rule on the acceptability of this motion.

That is in accordance with the facts. He went on to say:

> I will consider the point raised by Senator Flynn and that raised by Senator MacEachen and will rule later.

So it was my expectation that the Acting Speaker, who was in the Chair with full authority, and who had heard the argument, would make the ruling. I then asked as follows:

> Honourable senators, are we to take it that we will get the ruling tomorrow, or will we return this evening for it?

The Hon. the Acting Speaker replied:

> The ruling will not be given tonight; it will be given tomorrow.

That is what I understood to be the case. In view of the Honourable the Acting Speaker's reply, Senator Graham consulted me yesterday on what he ought to do, because he had a full program of engagements in Nova Scotia today. On the ground that the Honourable the Acting Speaker had assured us of a ruling today, I urged him to change his plans and remain in Ottawa so that he could hear the ruling and deal with his motion.

I was notified a few moments before 2 o'clock today that there was not to be a ruling and that the Honourable the Acting Speaker would not be in the chamber. Now we have been advised by the Honourable the Speaker *pro tempore* that he will give a ruling on Tuesday next.

I accept that, but I must say that I feel like apologizing to Senator Graham for having accepted the assurance of the Honourable the Acting Speaker that he would give a ruling on this matter today.

I would expect that, since neither the Speaker nor the Speaker *pro tempore* was in the chamber yesterday, we can have a ruling from the Speaker himself on Tuesday.

Hon. Jacques Flynn: I suppose that if Senator MacEachen had accepted my view yesterday Senator Graham could have explained his motion, reserving the right to raise the point of order later.

Senator Doody: Honourable senators, if it is the wish of the chamber—and obviously it is—that we come back on Tuesday, I will put the adjournment motion.

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, June 7, 1988 at two o'clock in the afternoon.

Motion agreed to.

QUESTION PERIOD

ENERGY

TAR SANDS PROCESSING PLANT, FORT McMURRAY, ALBERTA—GOVERNMENT'S FINANCIAL COMMITMENT

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government a question respecting the financing of another oil sands processing plant in Alberta. I did ask the leader a question on this matter on March 16, 1988. At that time he advised me that there were some discussions under way between the federal government, the provincial government and a consortium of private companies known as OSLO, which is considering this plant.

An announcement was made yesterday by the Minister of Energy, Mines and Resources, the Honourable Marcel Masse, to the effect that he expects that within the next two weeks the government may be able to make a firm announcement, that at the present time apparently the Government of Alberta and the Government of Canada have agreed on a financing package and that both governments are willing to support that package.

Can the Leader of the Government in the Senate tell us what the federal government's commitment is regarding the financing of this operation?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I must speak on this matter subject to correction. I have not seen the statements that have been attributed to my colleague, the Honourable Marcel Masse. My latest information on the matter is that a proposal had been made by the OSLO group, that it is still being considered by the federal government and the Government of Alberta, and that we had undertaken to respond formally to the OSLO group in the near future.

● (1410)

Again I speak subject to correction, but I am not aware that we have reached agreement on a financial package with the Province of Alberta. My latest information is that Alberta had made a proposal to the federal government earlier this week. I shall have to verify the suggestion of my honourable friend that agreement on a financial package has been reached between the two governments, because my latest information does not indicate that that is the case.

Senator Olson: Honourable senators, the reason I am asking for clarification is that yesterday the Minister of Energy, Mines and Resources apparently said a number of things, as reported in the *Globe and Mail*, about having reached an agreement on financing with Alberta. He said:

> The financing accord would then be presented to the six OSLO partners for negotiation . . .

That leaves the implication that the two levels of government have worked out a financing arrangement that is to be presented to the OSLO partners. If that is not the way it is being handled, I would like to know. I understood from the minister's comments earlier that the proposal was from the OSLO partners to the governments, and not the other way around.

Senator Murray: The OSLO sponsors put forward a proposal some time ago. That proposal has been the subject of discussion between ourselves and the Province of Alberta at both the official level and the ministerial level. Two ministerial meetings have been held in the last few days, one last week, I believe, and the other earlier this week.

We have not yet formally responded to the OSLO sponsors. We hope to do so in the next little while. My latest information certainly does not indicate that any firm agreement on financing has been reached between the federal government and the Alberta government. My latest information is that the Alberta government had made a proposal to us which we were studying.

Again, I have not been speaking to the minister in the last couple of hours. I can only vouch for the latest information I have, which is perhaps a day or more old. I shall endeavour to get an update. Again, I repeat, my latest information does not indicate that we have an agreement on a financial package with the Government of Alberta.

Senator Olson: That is helpful. I believe the Leader of the Government has already made a commitment to look into the matter further; so I will raise this subject again on Tuesday next.

[Senator Olson.]

EMPLOYMENT EQUITY

COMPLIANCE WITH ACT

Hon. Lorna Marsden: Honourable senators, you will recall that this chamber expressed its distress when the Employment Equity Act was passed by the government a couple of years ago. Yesterday was the first date by which employers had to comply with what we would have preferred to call a "Statistical Reporting Act." Over the last little while mounds and mounds of data have been collected by employers at very considerable expense.

I should like to ask the Leader of the Government in the Senate how many employers delivered their reports by June 1, and what proportion of those who must comply with the Employment Equity Act or the Federal Contractors' Program have so complied.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know the answer to that question. I shall have to obtain the information from my colleague.

THE CONSTITUTION

CONSTITUTIONAL ACCORD, 1987—FEDERAL-PROVINCIAL DISCUSSIONS ON MODIFICATIONS OF TERMS

Hon. Daniel A. Lang: I should like to direct a question to the Leader of the Government in the Senate in connection with Meech Lake, particularly with reference to the "seamless web" concept. Are there any discussions taking place now between officials under his direction and Quebec officials under the direction of Mr. Rémillard regarding possible modifications to the terms of the Meech Lake Accord?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The answer to that question is no, honourable senators.

Senator Lang: As a supplementary, are any such discussions under way with respect to any officials of other provincial jurisdictions?

Senator Murray: The answer to that question is also no.

CAPE BRETON DEVELOPMENT CORPORATION

PRESIDENCY—APPOINTMENT TO FILL VACANCY

Hon. B. Alasdair Graham: Honourable senators, may I direct a question to the Leader of the Government in the Senate with respect to the presidency of the Cape Breton Development Corporation, which the Honourable Senator Murray should know has been vacant for over six months?

Is the government any closer to making a choice to fill that vacancy?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Yes, honourable senators.

Senator Graham: I thank the Honourable Senator Murray for his usual succinct response, but could he provide more illumination? The rumour mill has been active for several weeks—indeed, for several months.

I might observe in posing my question that Dr. Teresa MacNeil, chairman of Devco, has done yeoman service and provided the community with great leadership in her position as acting president, but has also indicated that that appointment as acting president is up within a matter of days. I understand as well that Dr. MacNeil has indicated that she would not want a continuance or renewal of whatever mandate she was given, which I understand was six months.

Could Senator Murray, against that background, give us a better time frame in which the appointment might be made?

Senator Murray: Honourable senators, let me associate myself and the government fully with the honourable senator's comments about Dr. MacNeil. She has been acting president of Devco for some months now. All along she has been chairman of the board of Devco, is vice-chairman of Enterprise Cape Breton and a member of that board and also was recently confirmed as director of the extension department at St. Francis Xavier University. So she is a busy person. The government is grateful to her for the service that she has rendered to the corporation and the community in this and so many other respects.

All I can tell the honourable senator with regard to the presidency of Devco is that a decision on this matter is imminent.

EXCISE TAX ACT
EXCISE ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Flynn, P.C., seconded by the Honourable Senator Doody, for the second reading of the Bill C-117, An Act to amend the Excise Tax Act and the Excise Act.—(*Honourable Senator Buckwold*).

Hon. Sidney L. Buckwold: Honourable senators, it is my privilege to respond on behalf of this side to the proposal to have this chamber adopt Bill C-117, to amend the Excise Tax Act and the Excise Act.

I look across the chamber at Senator Flynn, who proposed this bill in his usual able manner. It is customary to pay tribute to the proposer. I must say that I was rather amused at Senator Flynn as he read the words prepared for him by some propaganda writer in the minister's office.

Senator MacEachen: That was in Senator Atkins' office!

Senator Buckwold: Those words praised the success of the present government in financial management of the country; bragged about better Treasury management, pointing out how taxpayers have benefited during the present political regime.

An Hon. Senator: False!

Senator Stanbury: Twenty-two billion dollars!

Senator Buckwold: I can well imagine how he would have reacted—and I refer to Senator Flynn—if I had delivered the same speech from this side. His head would have been shaking negatively, and in his good-natured way he would have interjected time and again with a phrase like, "You must be joking!"

Senator Flynn: Why didn't you?

Senator Stanbury: He was joking!

Senator Buckwold: I took him seriously for a while!

Senator Flynn: You did not take me seriously before.

Senator Buckwold: Honourable senators, Bill C-117 is a bill which finally brings into law excise tax and sales tax increases that were announced in February 1987, June 1987, December 1987 and February 1988. All of them are already being charged to defenceless taxpayers and our task now is to make them legal. I deplore the long period of time this legislation has taken to be presented. What we have seen is unprecedented taxation by fiat, and not by legislation, brought into law. It is, I might suggest, another form of taxation without representation, a condition fought against for centuries.

● (1420)

I can understand the necessity for short-term delays because of the very nature of the financial implications of tax measures, but surely a serious government would have legitimized these issues long before this, rather than delaying the matter for a period of almost 15 months on important tax measures.

Honourable senators, I believe that this has created an unsatisfactory climate for taxation and, indeed, has created a dangerous precedent. However, honourable senators, we finally have before us Bill C-117, a bill that contains 77 pages. The Ten Commandments, expressing a model moral code for mankind, were written using 297 words. Bill C-117, to amend the Excise Tax Act and the Excise Act, has been expressed in 25,000 words.

What does this bill do? It legally codifies a series of taxes already imposed—taxes which will raise billions of dollars—and justifies it by asking the poor Canadian taxpayer to believe that the heavy tax increases are part of a global tax reform program in which the result is fiscally neutral. Honourable senators, I am not sure about "neutral," but in any event that is the phrase I believe the minister used.

They say that personal income taxes will be cut by $12 billion over the next five years. That cut will be made possible by this additional, retroactive, retrogressive, indirect taxation, plus some increase in corporate taxation. Honourable senators, if you believe that, let me tell you that I have a couple of bridges out in Saskatchewan I can give you a very good buy on.

Honourable senators, what we have here is really a government that has raised an additional $22 billion in taxation since taking office in 1984—

Senator Perrault: Robbery!

Senator Buckwold: —a government that now pats itself on the back for having reduced the deficit by a relatively minimal amount. We have a government elected on a platform of lower taxes and controlled expenditures, trying to get Canadians to believe that those objectives have been achieved.

Honourable senators, what we are looking at is a magic show featuring that world-famous illusionist, Wilson the Wonderful, who is performing some virtuoso feats and trying to create the impression that Canadian affairs are being properly managed and responsibly undertaken. This government, honourable senators, was elected on a platform of no increase in taxes, and yet we now have Bill C-117 before us. Let me explain how this is done in Bill C-117.

Senator Perrault: It is done by astrology!

Senator Buckwold: Here are some of the examples. First of all, we have a snackfood tax on ice cream, candy, potato chips, et cetera. Kids just love that tax!

Senator Perrault: Taking candy away from kids!

Senator Buckwold: Penny by penny, the government will bring in $70 million this year.

Senator Perrault: It is a candy tax!

Senator Buckwold: Next, there is a 4 per cent tax on tobacco. Those hooked on this habit will puff up another $50 million in 1988 and 1989. There is also an increase in sales tax on liquor and tobacco from 15 per cent to 18 per cent.

For those of you who fly, we have a transportation tax increase of $4, which we are already paying. Therefore, as we take to the air we will put an additional $50 million into the government coffers.

Then we have an increase in the telecommunications tax to 10 per cent. That tax is levied on long distance calls, telexes and cable TV.

Senator Perrault: Tax, tax, tax!

Senator Buckwold: To the government and to our illusionist, Mr. Wilson, who is always increasing taxes, that will be worth another $870 million this year.

Senator Perrault: Taxes for the memories!

Senator Olson: Taxes on the rural people!

Senator Buckwold: Most of these taxes will be paid by rural and small-town folk who, more than most people, use long distance as part of their way of life because of the very nature of the place in which they live.

Then we have a gasoline tax. We will be charged another one cent for a litre of gas. That tax just went on on April 1, and was applied after previous increases by Mr. Wilson of two cents per litre in Septembr 1985, one cent per litre in January 1987 and one cent per litre in February 1987. Do honourable senators know that that one little extra penny will bring in $225 million for the balance of this year? Federal gasoline taxes have increased since 1984 by a total of 23 cents a gallon—

An Hon. Senator: Wow!

Senator Buckwold: —and this is the "no-tax-increase" government.

Senator Stanbury: That is more than the 18 cent levy!

Senator Buckwold: It is more than the 18 cents and it makes the National Energy Program, which was so severely criticized, look like a piker compared to what this government is doing to those who are using energy.

Senator Flynn: Here we are back in the 1980 election!

Senator Buckwold: There is not an actual increase in the overall federal sales tax in this legislation, because it would be increased beyond the level the Canadian public would stand for. Since 1984 the federal sales tax has gone up from 9 per cent to 12 per cent. That sounds fairly minimal—only 3 per cent. However, if you are in business you know what happens if you keep adding percentages on to percentages. I would be glad to illustrate to Senator Flynn, and others who are interested, how this 3 per cent federal sales tax increase really ends up costing consumers perhaps as much as 5 per cent by the time the particular product goes through the mark-ups of wholesalers, retailers and other costs of distribution.

Of course, this increase in taxes is one of the reasons the government is now worried a little bit about inflation. Therefore, it is keeping interest rates high to minimize that pressure. Part of that inflation is being brought on this country by the very actions of this "no-tax-increase" government, which is taking in billions of dollars. The 3 per cent sales tax increase will bring in an additional $3 billion. That tax shows up in many different ways.

Let us get back to the illusion—this business of the government saying that they are really doing well, that they are balancing budgets, that they are creating an improved defict position, that they are satisfying the Canadian taxpayer. A little while ago the government, again in order to create the impression that it was doing so well, speeded up the payments of withholding taxes. In other words, if you were a business and you held back tax deductions from employees, those deductions had to be sent in earlier. Do honourable senators know how much that little move helped the government in that year? It helped by $2.6 billion.

Senator Murray: Don't you wish that you had thought of it?

Senator Buckwold: This year—and I am leading up to Senator Flynn's point here—the government has created a $1.6 billion windfall by speeding up the payment of the sales tax. Instead of sending in the tax under the usual program, manufacturers who collect sales tax have been asked to speed up their payments and get the money in faster. This will result in a reduction of the deficit for this year of $1.6 billion. Of course, we know that this is a one-shot deal, and that next year they will have to find some other device. First the government

raised $2.6 billion through withholding taxes; this year it is raising $1.6 billion by speeding up the sales tax payment process. Where they will get the money from next year, I am not quite sure. They may sell Air Canada, which would be a big windfall to the treasury, because, under the peculiar accounting procedures of the government's financial wizards, such payments are made to count as revenue and to make things look really good.

Well, they can keep selling off assets, but some day they will have to pay the piper.

● (1430)

All these taxes, honourable senators, have increased the cost of living. They have raised prices and they have made it more difficult for Canadian industry to be competitive.

If one looks at the record for 1984 to 1988, one will find that the government has increased overall taxes by $32.4 billion—a 46 per cent increase in that four-year period. Still to come in the smoke-and-mirror show is phase two, namely, the sales tax program. We are not quite sure whether it will be a sales tax applied in conjunction with provincial governments or whether it will be a value-added tax, but I gather that everything from an escort agency to a funeral home will be paying a tax to the government.

It is all part of the illusion!

Phase two should be brought in now. We should know where we stand on this whole business of increased indirect taxation, which is an insidious way of collecting money from the people of Canada. However, on the very good advice of our political leaders of the government, we will not know about that until after the next election. The government, very nicely, has made some decreases in certain areas of federal income tax for this year, but they will wham it to us as soon as they can with a draconian form of sales tax, which will come into effect, they say, in the next budget.

Honourable senators, I agree with its sponsor, Senator Flynn, that this bill should be referred to the Standing Senate Committee on Banking, Trade and Commerce. I am sure that many other questions will be asked there, where I have no doubt the bill will be put in its proper perspective, as another attack on the pocketbooks of Canadians.

Some Hon. Senators: Hear, hear!

Senator Perrault: This budget was written by Jesse James.

Senator Doody: No, by his brother, Frank.

Hon. Efstathios William Barootes: Would Senator Buckwold entertain a question from a fellow Saskatchewanian? I was quite interested in the illusion he referred to. I believe I am quoting the senator correctly as having said, "All these taxes will have caused an increase in the cost of living for Canadians." Could the honourable senator please explain to me how the cost of living increment or the inflation factor has remained at four per cent during these years, whereas it was previously as high as 12 per cent and 13 per cent?

Senator Buckwold: The answer is relatively simple. I am just amazed that a native of Saskatchewan would not have the intelligence to grasp it immediately. I am going to have to talk to our former math teachers, because we went to the same high school so many years ago. As I said, the answer is relatively simple. Our inflation rate should not be 4 per cent or 5 per cent; our inflation rate right now should be 2 per cent or 2.5 per cent. I am suggesting that, had it not been for the kinds of policies this government has put forward, we would not be in that range of inflation.

Senator Barootes: Isn't 4 per cent considerably better than the 12.5 per cent that existed in 1983?

Senator Buckwold: Yes, and that was certainly brought well down by the former government, which saw a world condition of inflation and handled it immediately in a responsive and responsible way by introducing the kinds of controls that put the inflation rate into shape and into the proper order.

Some Hon. Senators: Hear, hear!

Senator Buckwold: I think the Canadian record is as good as any in terms of controlling inflation during those times.

Senator Barootes: I would like to thank Senator Buckwold, "the illusionist," for explaining that to me.

[*Translation*]

The Hon. the Speaker *pro tempore:* Honourable senators, if Senator Flynn speaks now, his speech will have the effect of closing the debate on the motion for second reading of this bill.

Hon. Jacques Flynn: Honourable senators, I want to thank Senator Buckwold for his very apt remarks. Everything is relative as far as taxes are concerned.

I have two comments to make. First of all, about the delay, tax measures normally become effective on the day they are announced by the Minister of Finance, and the parliamentary process, or rather the time that process takes, depends far more on the opposition than on the government in these matters, and he knows that perfectly well. When he says this is a precedent, I think he is mistaken.

As for the problem about improving our finances, when I look at this government and when I look at the previous government, I am vastly relieved because I am sure we are doing a much better job.

The deficit has improved. Our tax system has been adjusted in favour of those who are in greatest need, since these taxes generally do not have a substantial impact on low-income groups.

In any case, people will always find a way to criticize measures that provide for tax increases. I understand that. As for the proper perspective sought by Senator Buckwold, I am sure the Standing Senate Committee on Banking, Trade and Commerce, chaired by Senator Sinclair, will try to provide that perspective.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Flynn, bill referred to Senate Standing Committee on Banking, Trade and Commerce.

[*English*]

EMERGENCIES BILL

CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

Leave having been given to revert to Order No. 3:

> The Senate again in Committee of the Whole on the Bill C-77, An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof, the Honourable Gildas L. Molgat in the Chair.

Senator Phillips: Honourable senators, I move, seconded by Senator Petten,

> That the following Senators be appointed to serve on the Steering Committee of the Committee of the Whole on the Bill C-77, An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof, namely, the Honourable Senators Asselin, Cochrane, Frith, Hébert, Kelly, Marsden, Molgat and Stewart (*Antigonish-Guysborough*).

● (1440)

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Chairman: Although there is no chairman at the moment for the steering committee, would it be agreeable, honourable senators, that the committee meet when the Senate rises on Tuesday next, or at our next sitting?

Hon. Senators: Agreed.

Senator Doody: Mr. Chairman, I move that the committee adjourn, report progress, and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which was referred the Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof, reports progress and asks for leave to sit again.

[The Hon. the Speaker.]

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this committee have leave to sit again?

Hon. C. William Doody (Deputy Leader of the Government) moved that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

Motion agreed to.

STANDING RULES AND ORDERS

TENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Committee on Standing Rules and Orders presented on Tuesday, May 31, 1988.

Hon. Gildas L. Molgat: Honourable senators, this report deals with a change to the rule respecting the Standing Committee on Internal Economy, Budgets and Administration. This matter arose out of a letter by the Honourable Senator Doody pointing out some difficulties in the wording of the old rule. The committee studied the matter carefully. The problem was that there could be a misunderstanding on the part of certain people that under the old rule the committee might not require the approval of the Senate itself for its measures, because rule 67(1)(*g*) simply said:

> . . . and to report the result of such consideration to the Senate.

It could be deemed that that meant that if the committee reported, then it was deemed that their action had been approved. The feeling was that there should be proper approval by the Senate, as there is for every other committee of the Senate, and that the final decision on anything must be taken by the Senate itself.

Having studied this problem, the committee proposes the new wording which is in this report, which eliminates completely that matter of reporting and simply states what the committee can do. Then, because of that common rule that no committee can make any final decision without the approval of the Senate, the decisions of that committee will automatically require the approval of the Senate.

● (1450)

So that is how the rule reads presently.

After discussion in the Rules Committee it was agreed that we should send the rule to the Internal Economy Committee itself to make sure there was no disagreement on their part and that they understood what it was the Rules Committee was trying to do. This matter was discussed in the Internal Economy Committee and passed unanimously. Therefore, I recommend the rule to the Senate and move the adoption of the report.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Molgat, seconded by the Honourable Senator Corbin, that this report be now adopted. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

STANDING RULES AND ORDERS

ELEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Committee on Standing Rules and Orders (establishment of a standing committee), presented on Tuesday, May 31, 1988.

Hon. Gildas L. Molgat: Honourable senators, this matter came to the attention of our committee, in the first instance, by a letter from the Atlantic Society of Fish & Wildlife Biologists. That group wrote to me on November 12, 1987, describing a meeting they had had and some of their concerns. They enclosed a resolution from the society which reads as follows:

> Whereas the Senate of Canada does not have a standing environment committee,
>
> and whereas it is the duty of the Senate to consider and pass legislation that has received approval in the House of Commons before it can be proclaimed into law,
>
> and whereas a number of these bills are directly environmentally related while others have some environmental implication,
>
> Therefore, be it resolved that the Atlantic Society of Fish and Wildlife Biologists urge the Senate of Canada to appoint a standing environment committee.
>
> Approved at the annual meeting,
>
> September 28, 1987.

Subsequent to that, a number of other letters arrived from various groups across the country, some of which referred to the resolution of the Atlantic Society of Fish & Wildlife Biologists. I believe a number of my colleagues received copies of that correspondence; I know that Senator Doody did.

The committee discussed this carefully—in fact in great detail—because it recognized the importance—indeed, the growing importance—of environmental matters and what a particular concern that is for our country, bearing in mind the difficulties we have had with our neighbour on the question of acid rain and the different problems that have arisen in northern Canada where the ecology is in particular danger.

Nevertheless, recognizing the importance of the item, the committee felt that the present rules provide ample opportunity for the discussion of environmental matters.

Honourable senators will know that environmental matters are specifically mentioned as being the responsibility of the Standing Senate Committee on Energy and Natural Resources. In addition to that committee's general responsibilities, it has four specific responsibilities. Rule 67(1)(*o*), subparagraph (iii), sets out environmental affairs. So the subject is specifically covered under the responsibilities of that committee.

In addition to that, the Standing Senate Committee on Foreign Affairs could very easily be involved in environmental matters when it is involved in international questions such as acid rain. The Transport and Communications Committee could be involved in environmental matters, and has been. I am thinking of the transportation of dangerous goods in that regard. That committee has dealt with that subject before. The Social Affairs, Science and Technology Committee could obviously be involved in any technical questions that might arise on environmental matters. The Agriculture and Forestry Committee has recently published a report entitled: "Soil at Risk". That report dealt with an environmental question. The Fisheries Committee equally has an interest in environmental matters. In fact, last week the Fisheries Committee was in Newfoundland and environmental matters did come up, particularly as they related to seals and pollution.

So the recommendation of the committee is that, because of the specific responsibilities of one committee, and the possibility of several other committees dealing with various aspects of the environment, and in view of the problems we have now relating to numbers, as well as the number of committees the Senate now has, we should not proceed with the establishment of a new committee.

I was requested to make this report to the Senate and obtain its approval before writing to the groups who have communicated with us. If the Senate adopts the report, letters will be prepared and sent to all groups explaining the decision.

Hon. Jack Marshall: Did Senator Molgat say during his brief description that other committees were requested to give their opinions? I just wonder why everybody involved could not have been consulted.

Senator Molgat: I do not believe I said that we consulted other committees.

Respecting item No. 10 on the order paper, I said that we consulted the Internal Economy Committee on the rule because that rule specifically affected the Internal Economy Committee. We thought that, out of courtesy to that committee, we ought to let the members of that committee know what the Rules Committee was recommending before bringing the recommendation to the Senate.

In this particular case we are not recommending any change to any rule and, therefore, we did not contact any other committee on the matter, because environmental affairs, as I have stated, are clearly already specified as the responsibility of one of our committees. We are proposing no change and, therefore, did not feel it was necessary to contact other committees.

Honourable senators, I move the adoption of the report.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Molgat, seconded by the Honourable Senator Corbin, that this report be now adopted. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

The Senate adjourned until Tuesday, June 7, 1988, at 2 p.m.

APPENDIX "A"

(*See p. 3572*)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-THIRD REPORT OF STANDING COMMITTEE

THURSDAY, June 2, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTY-THIRD REPORT

Your Committee recommends the following regulations for the Senators' Travel Policy:

In these regulations,

"Alternate" means a spouse (including common law), members of the immediate family and a member of the personal staff of the Senator;

"Region" means one of the following: the Atlantic Region, the Central Canada Region (Ontario and Quebec) and the Western Region.

1. 64 points allocated per calendar year. (no change)

2. All of the 64 points may be used by a Senator for travel, between Ottawa and a Senator's region and/or within the Senator's region. These trips are referred to as "*regular*" trips.

3. 20 of the 64 points may be used by a Senator for return trips from Ottawa or the Senator's Province to any destination in Canada. These trips are referred to as "*National*" trips.

4. 12 of the 20 points may be used by the Senator's spouse and/or alternate for National trips.

5. 18 of the 64 points may be used by the Senator's spouse and/or alternate for regular trips.

6. Travel within a Senator's region, regardless of distance travelled or mode of transportation, is counted as $\frac{1}{4}$ regular point for each return trip or for each leg of the trip between overnight stop-overs.

7. While travelling, a Senator and an alternate may claim, meals and accommodation expenses up to a maximum of two days, up to a limit of $120 per day, upon production of receipts.

8. A Senator and a spouse or one designated member of the immediate family are entitled to use all fares including first-class air fare and will be charged one (1) point for each return trip taken.

9. An alternate, other than the spouse or one designated member of the immediate family, who travels first class will be deducted $1\frac{1}{2}$ points for a return trip.

10. When a Senator deems it necessary to stop overnight during travel, he will be reimbursed for additional expenses supported by receipt resulting from different travel arrangements. Senators resident in the Yukon and Northwest Territories will be reimbursed for expenses such as overnight hotel accommodation and meals plus taxis.

11. Ground transportation to and from airports is reimbursed up to $18.00 without receipt. Taxi claims exceeding $18.00 must be accompanied by a receipt. (no change)

12. One-day car rental charges, each way, supported by receipts, for an intermediate car is permitted as a travel claim or option where appropriate and reasonable, in lieu of taxis or other means of transportation.

13. When travel is undertaken by car, the total claim must not exceed the equivalent rate for first class air fare. Reimbursement for distance travelled will be made at the rate of 25.1 cents per kilometer. (no change)

14. When Senators travel in a carpool, or otherwise share transportation, the Senator who provides the transportation will be reimbursed his or her regular entitlement with each accompanying Senator eligible to claim 25% of that entitlement. Travel points will be deducted in the regular manner for those Senators being reimbursed.

    The same would apply to Senator's alternates.

15. No points are deducted when free rail transportation is used unless meal, ground transportation or accommodation charges are claimed. Points will be deducted at one-half ($\frac{1}{2}$) the normal rate.

16. Air tickets and receipts for authorized expenditures must be attached to travel expense claims. (no change)

Respectfully submitted,

GUY CHARBONNEAU
Chairman

THE SENATE

Tuesday, June 7, 1988

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

Prayers.

SCRUTINY OF REGULATIONS

JOINT COMMITTEE CHANGE OF NAME—MESSAGE FROM COMMONS

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 the Standing Joint Committee for Regulatory Scrutiny had been changed to the Standing Joint Committee for the Scrutiny of Regulations.

INDIAN 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-115, to amend the Indian Act and another act in consequence thereof.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, June 9, 1988.

[*Translation*]

THE ESTIMATES, 1988-89

REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Fernand-E. Leblanc: Honourable senators, the Standing Senate Committee on National Finance has the honour to present its twenty-third report on the Estimates for the fiscal year ending March 1 1989. I ask that the report be printed as an appendix to today's *Debates of the Senate* and *Minutes of the Proceedings* in order that it be part of the Senate's permanent record.

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

Hon. Senators: Agreed.

(*For text of report see Appendix "A", p. 3611.*)

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

On motion of Senator Leblanc (Saurel), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Royce Frith, the Chairman of the Standing Committee on Internal Economy, Budgets and Administration presented the following report:

Tuesday, June 7, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTY-FOURTH REPORT

Your Committee has examined and approved the budget presented to it by the Chairman of the Ad Hoc Committee on Senators' Research Expenditures for the proposed expenditures of the said Committee with respect to its review of applications for research expenditures, as authorized by the Senate on May 3, 1988. The said budget is as follows:

Other expenditures ..... $ 1,000

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

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

[*English*]

NORTH ATLANTIC ASSEMBLY

SPRING SESSION, FUNCHAL, MADEIRA—NOTICE OF INQUIRY

Hon. William M. Kelly: Honourable senators, I give notice that on Tuesday next, June 14, 1988, I will call the attention of the Senate to the spring session of the North Atlantic Assembly, held at Funchal, Madeira, from May 26 to 30, 1988.

I might mention, honourable senators, that my whip has instructed me that when I do get around to making that report I must be very brief, and I promised him I shall be!

[*Translation*]

TRADE PROPAGANDA

NATURE—NOTICE OF INQUIRY

Hon. Philippe Deane Gigantès: Honourable senators, I give notice that on Wednesday, June 15, 1988, I will call the attention of the Senate to the nature of trade propaganda.

QUESTION PERIOD

[*English*]

ENERGY

TAR SANDS PROCESSING PLANT, FORT McMURRAY, ALBERTA—GOVERNMENT'S FINANCIAL COMMITMENT

Hon. H.A. Olson: Honourable senators, last Thursday I asked the Leader of the Government in the Senate if he could give us some information respecting the financing arrangements that have been worked out by the Minister of Energy, Mines and Resources and the Minister of Energy for Alberta. The leader gave an undertaking that he would try to bring that information to the Senate today.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am pleased to report that, so far as I have been able to ascertain, the information which I placed on the record the other day is accurate.

Senator Olson: I did not question that. I wondered if the information in the newpapers was accurate, as we were led to believe, because the minister did not reply as to whether a financing arrangement had been worked out between the two levels of government.

Senator Murray: I thought I had answered that question. Subject to confirmation, I had answered that question in the negative, and the negative it is. A financing arrangement has not been worked out between the Government of Canada and the Government of Alberta.

Senator Olson: I wonder if the Leader of the Government in the Senate could then give us an undertaking to provide a more complete and detailed explanation of what the situation is so that the people who will be directly affected by this decision will have something to go by other than the speculation of some reporters.

Senator Murray: Honourable senators, we and our friends in the government of Alberta are still reviewing the proposal put forward by the consortium. We expect to be in a position to provide a response to the consortium in the very near future.

Senator Olson: Could the Leader of the Government give us some definition of what he means by the "near future"? In other words, may I ask what "soon" means?

Senator Murray: I am afraid I cannot be more specific than I have been. If I obtain any more precise information from my colleague, Mr. Masse, who is directly concerned with these matters, I shall be glad to convey it to the Senate.

Senator Frith: It is sooner than "in due course."

Senator Murray: Definitely, definitely.

FUR INDUSTRY

PROPOSED BRITISH LABELLING OF CANADIAN PRODUCTS—GOVERNMENT ACTION

Hon. Gildas L. Molgat: Honourable senators, my question is to the Leader of the Government in the Senate. In view of the fact that the impending decision by the British government to change the labelling on Canadian furs will have a serious effect on northern Canadians, and the aboriginal peoples in particular, what plans does the government have to take further action vis-à-vis the British government in this regard?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, we have protested in the strongest terms to the United Kingdom government, not once but on several occasions concerning this matter. We, for our part, are considering what further action to take. The honourable senator will be aware that there is a possibility—or will be—of instituting some action under the GATT; but these matters are still being considered by the government.

Senator Molgat: In view of the proposed purchase of British submarines—a decision with which I do not necessarily agree—is it the intention of our government to let Her Majesty's government know that perhaps its actions will have some effect upon our decisions?

Senator Murray: Honourable senators, I prefer to take that question as notice.

Senator Frith: Long notice, I am sure!

FINANCE

INCREASE IN BANK RATE—GOVERNMENT ACTION

Hon. H.A. Olson: Honourable senators, I have another question for the Leader of the Government on a subject matter in which I know he has a long and abiding interest; that is, the interest rate set by the Bank of Canada every Thursday at 2 o'clock. I can remember, for example, that he asked that question of me every Thursday afternoon. Could he now advise us whether the government is going to take any action in an effort to see that justice is done in this regard? Many people, including me, believe that much of the country is being penalized because of some fear of the government or the governor of the bank with respect to inflationary pressure in a small geographical area of Canada.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I should like to draw to the attention of the honourable senator the fact that the fiscal policy of the government, the social policy of the government and the regional develop-

ment policy of the government are all such as to mitigate the effects of high interest rates on less favoured people and on less favoured regions of the country. I should have thought that he would be congratulating the government on the initiative that it has taken in that regard.

Hon. Royce Frith (Deputy Leader of the Opposition): Is that not the way in which you always answered the question, Senator Olson? Is that not the same answer you used to give Senator Murray when he asked the same question?

Senator Olson: No, it is not, because I always expressed a view on the monetary policy of the government, too. I noticed that the Leader of the Government carefully, or deliberately, refrained from commenting on whether this is the monetary policy of the government.

Senator Frith: Good point!

Senator Olson: I take it, then, that the government has no monetary policy, or that it agrees with what the Governor of the Bank of Canada is doing.

Senator Murray: The honourable senator is familiar, I presume, with the legislation governing the Bank of Canada and its relationship with the government. If there had been any question of disagreement on a policy matter as between the government and the Governor of the Bank of Canada, he would have heard about it by now.

Senator Olson: May I ask whether he has heard about it by now? Has the Governor of the Bank of Canada heard from the government with respect to the largest increase in the bank rate in the last three and a half years?

Senator Murray: Honourable senators, I can assure Senator Olson that the government has certainly not taken the kind of drastic action provided for under the legislation. He will be aware of the undoubted economic progress we have made in the last three and a half years and the serious threat to that progress that would be posed by any refuelling of inflation in Canada. And while I do not make their sentiments necessarily my own, Senator Olson will have seen the statements attributed to responsible business leaders in this country that the recent Ontario budget has made quite a significant contribution to the inflationary threat to this country.

Senator Olson: On the road to Damascus!

TRANSPORT

PRINCE EDWARD ISLAND—CONSULTATIONS ON DESIGN OF FERRY—RELOCATION OF TERMINAL

Hon. M. Lorne Bonnell: Honourable senators, I was pleased to see that on Friday, May 27, 1988, when the Minister of Transport was in Prince Edward Island, he boarded a ferry at Wood Island, Caribou. I was also pleased to hear his announcement that the government would spend $45 million on the acquisition of a new ferry and on the construction of wharves in that area of Prince Edward Island. It makes me think that an election is coming up in the fall or the spring, because the improvements to the ferry system are not supposed to be made until 1990 or 1991.

[Senator Murray.]

• (1410)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): They have to start building it, you know.

Senator Bonnell: Yes, we understand that.

Would the Leader of the Government in the Senate tell us if the good people of Prince Edward Island will be consulted on the planning and architectural design of these ferries? The people of Prince Edward Island would know what would best suit them for logging transportation to New Glasgow and Pictou and the transportation of potatoes from the eastern part of the province. They would know the type of ferry that would best suit that part of the country.

Senator Murray: Honourable senators, I shall inquire of my colleague, Mr. Bouchard, the Minister of Transport, what consultations he may be undertaking in that respect.

Senator Bonnell: Honourable senators, I note that $15 million of that money is to be used for the construction of a new terminal. Apparently a two-level ferry is to be built that will accommodate 150 cars and trucks. The present ferry has only one level and uses a single level loading dock; hence the new terminal.

Would the Leader of the Government in the Senate ask the Minister of Transport to consider changing one of the terminals from Caribou to Caribou Gully? If the terminal were located at Caribou Gully, that would cut off a distance of four-and-a-half kilometres and would allow the ferry travelling from Prince Edward Island to Nova Scotia to make the trip in 45 minutes rather than one-and-a-half hours. Consequently, that same ferry, being able to travel back and forth much more quickly, could make twice as many trips per day and would not have to travel through the narrows, which have to be dredged every year. Assuming a new terminal is to be built, would the Leader of the Government ask the minister to consider moving it to Caribou Gully?

Senator Murray: Honourable senators, I shall certainly draw those representations to Mr. Bouchard's attention.

CORRECTIONAL SERVICE OF CANADA

RESIGNATION OF COMMISSIONER AND DEPUTY COMMISSIONER

Hon. Earl A. Hastings: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate. I appreciate that he will have to take it as notice, but I would be grateful if he could prioritize it, because it has importance for all officers of the Correctional Service of Canada.

In the last two weeks there have been two resignations from the Correctional Service of Canada: that of Mr. Rhéal LeBlanc, Commissioner, Correctional Service Canada; and that of Mr. Gordon Pinder, Deputy Commissioner, Correctional Service Canada and Director of Program Training. These

untimely resignations have had a disturbing effect on all officers of the Correctional Service. Would the Leader of the Government consult his colleague, the Solicitor General of Canada, and make a statement with respect to this situation?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall consult Mr. Kelleher, but I have no reason to believe that the resignation of the commissioner, which I knew about before it was drawn to my attention by Senator Hastings, was anything but normal. It was done in the normal course and for normal reasons. The retiring commissioner has, as I understand it, plans of his own. To that I can only add that an announcement will be made shortly naming an acting commissioner.

AGRICULTURE

PRINCE EDWARD ISLAND POTATO INDUSTRY—GOVERNMENT ASSISTANCE

Hon. M. Lorne Bonnell: Honourable senators, I should like to ask another question concerning Prince Edward Island. I noticed in the *Evening Patriot* of June 6, 1988, that the Premier and the Minister of Agriculture of Prince Edward Island, as well as Mr. Orville Willis, manager of O'Leary Potato Packers, are quite concerned about 40 million pounds of potatoes that did not grow to full size last year because of the drought in Prince Edward Island. Apparently they will be unable to sell those potatoes, because they are small in size and did not develop. They are simply in storage and are worth about $5 million to the potato industry of Prince Edward Island.

Since the Government of Canada is considering drought assistance for western Canada—which is a good thing, and I want to support it one hundred per cent—will they also consider it for eastern Canada and for the Prince Edward Island potato farmers who are about to lose approximately $5 million in sales of potatoes because of the 40 million pounds of underdeveloped potatoes caused by the drought?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I must confess that I had not seen the report in the *Evening Patriot* to which the honourable senator refers, nor had that particular situation been drawn to my attention personally.

I shall ask the federal Minister of Agriculture whether he has anything to report on the matter.

Senator Bonnell: Thank you. I will be pleased to send you a copy to keep you informed, if your office does not have one.

FINANCE

EFFECT OF ONTARIO BUDGET ON INTEREST RATES

Hon. Philippe Deane Gigantès: Honourable senators, would the Leader of the Government care to arrange for someone to explain how the Ontario budget affects interest rates, because I have consulted some economists on this and they do not see how? Could he perhaps explain to us why the Ontario budget, which, by increasing taxes to some extent and therefore taking the standard Conservative approach to slowing down an economy, has contributed to a firing up of the economy and increasing the fear of an increase in the inflation rate?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I can only offer to send to the honourable senator copies of the reports which I have seen—perhaps he has not seen them—quoting quite senior business leaders in this country as attributing to the Ontario budget precisely that effect, namely, the effect of increasing the danger of an increase in inflation in this country.

Senator Gigantès: I thank the honourable Leader of the Government. I shall be looking forward to reading the elucubrations of his business friends.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators I have answers to two questions. One question was asked on June 1, 1988, by Senator Denis, regarding the filling of vacancies in the Senate, and the other was asked on June 2, 1988, by Senator Graham, regarding the Cape Breton Development Corporation presidency.

I ask that they be printed as part of today's proceedings, if honourable senators agree.

Hon. Azellus Denis: Would you please read mine, if it is not too long?

Senator Doody: Certainly.

THE SENATE

FILLING OF VACANCIES—REASONS FOR DELAY

Hon. C. William Doody (Deputy Leader of the Government): To my knowledge, Nova Scotia is the only province, other than Newfoundland, that has initiated consultations on a Senate appointment and those consultations are being pursued. It is open equally to the Prime Minister or the premier of a province to initiate such consultations.

Hon. Azellus Denis: May I ask about the other provinces that have vacancies?

Senator Doody: Well, the answer indicates that the other provinces have not opened discussions on the vacancies. However, I will ask if there is any other information available and bring it forward to you.

Senator Denis: It is not the duty of the government to ask them for consultations.

Senator Doody: Once again, the answer indicates that it is open to either party to open the consultations.

CAPE BRETON DEVELOPMENT CORPORATION

PRESIDENCY—APPOINTMENT TO FILL VACANCY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 2, 1988, by the Honourable Alasdair Graham, regarding Cape Breton Development Corporation—Presidency—Appointment to Fill Vacancy.

(*The answer follows:*)

> At the request of the government, the Board of Directors instituted a lengthy search for qualified candidates and, based on the Board's recommendations, the government is now concluding its selection process. In this regard, the government hopes to complete arrangements for an appointment very shortly.
>
> Until a formal appointment is announced and, with her full concurrence, the Board of Directors has made the necessary arrangements to extend Dr. MacNeil's acting appointment as President and CEO of Devco.

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

MOTION TO INSTRUCT NATIONAL FINANCE COMMITTEE TO DIVIDE BILL C-103 INTO TWO BILLS—SPEAKER'S RULING NEGATIVED

The Hon. the Speaker: Honourable senators, before we proceed with Orders of the Day, the Chair was asked for a ruling on the motion of Senator Graham last Wednesday. If I may, I will now give the Chair's ruling.

[*Translation*]

On Wednesday, June 1, the Chair was asked to rule on the acceptability of the motion of the Honourable Senator Graham:

> That it be an instruction of this House to the Standing Senate Committee on National Finance that it divide Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, into two Bills, in order that it may deal separately with Part I, entitled the Atlantic Canada Opportunities Agency, and Part II, entitled Enterprise Cape Breton Corporation.

In the discussion which followed, all Senators agreed that this motion was somewhat unusual to the proceedings of the Senate. It is for this reason that the Chair wanted to delay its ruling which had been promised for last Thursday. I wish to apologize to all honourable senators who may have been inconvenienced by this delay, but the matter is of such importance that more time was required to fully consider the point of order raised by Senator Flynn and the comments made by Senator MacEachen, Senator Stewart and Senator Molgat.

The issue before us is whether it is in order, within the procedures of the Senate, to move a mandatory instruction to a committee that Bill C-103, a bill passed by the House of Commons and sent to the Senate for concurrence, be divided into two separate bills. As Senator Stewart succinctly noted on Wednesday, Senators must ask themselves what reasons could there be for prohibiting the moving of such a motion.

In deciding this question, it is usual to examine the precedents for similar motions. After searching the Senate Journals, no Senate precedent can be found. With respect to House of Commons precedents, it does not appear that the House of Commons has ever divided a Senate bill. With respect to the House of Lords, Erskine May states on page 502:

> Only one attempt has been made to divide a bill brought from the Commons . . . and this was defeated. But the instruction was objected to on its merits as well as on its unprecedented nature and the technical difficulties it would create, so that the propriety of dividing a Commons Bill has not been decided.

● (1420)

[*English*]

With respect to Australian procedure, Odger's *Australian Senate Practice*, Third Edition, states on page 214, "No precedent can be found in the records for an Instruction for the division or consolidation of Bills . . .".

The Chair feels that searching for precedents, in this instance, is not very helpful. With respect to the motion made in the Lords on July 29, 1919, Erskine May states that the propriety of an Upper Chamber dividing a bill from the Lower Chamber has not been decided. The 1919 motion would have been a more useful precedent had a Speaker's ruling been given. That no such ruling was rendered did not prove, in my opinion, that the motion was procedurally acceptable. Erskine May notes that "in the enforcement of rules for maintaning order, the Speaker of the Lords has no more authority than any other Lord, except in so far as his own personal weight and dignity of his office may give effect to his opinions and secure the concurrence of the House. As a consequence, the responsibility for maintaining order during debate rests with the House as a Whole. The Leader of the House has a special part to play in expressing the sense of the House and in drawing attention to cases where the rules of procedure have been transgressed or abused."

The Chair has reviewed the debate in the Lords in 1919 and notes that the Civil Lord of the Admiralty (the Earl of Lytton) raised certain procedural problems which would occur if such a motion was adopted. In any event, the 1919 precedent, in my opinion, remains somewhat tenuous.

The lack of precedents does not in itself prohibit the acceptability of Senator Graham's motion. Without precedents, senators must examine the motion as it is presented to us and decide if it contravenes any procedural rules under which this chamber operates.

The Chair finds that on many grounds the motion presents no procedural difficulties. Proper notice was given of the

motion. The Chair feels that, as a general principle, instructions to divide bills may be moved in the Senate when the bills originate in the Senate, as they may be moved in the House of Commons when they originate in that House. With respect to Beauchesne's citation 761(2), that "such an Instruction is in order only if the bill is drafted into two or more distinct parts or else comprising more than one subject matter . . .", the Chair agrees with the Leader of the Opposition that Bill C-103 is capable, from a drafting point of view, of being easily divided.

The main procedural problem, the Chair feels, lies with the nature of Bill C-103 itself. It is a government bill and a money bill, having been recommended by Her Excellency the Governor General. Senator Graham's motion is quite clear that the National Finance Committee will be instructed to divide Bill C-103 into two bills. Erskine May states, on page 564, that, when an instruction has been given to the committee that a bill may be divided into two or more bills, "the separate bills have been separately reported."

[*Translation*]

If it is divided, Bill C-103 will no longer be on the Senate Order Paper but will be superseded by two separate bills. The Chair notes there could be a technical problem with the numbering of such bills but feels such practical difficulties could be worked out. The Chair has a problem in accepting that these two separate bills are still government bills. Senator Graham's instruction does not deal with amending a government bill, but with dividing a government bill into two bills. These two bills would therefore have found their way before Parliament, not in the House of Commons, but in the Senate. Since they would both be bills appropriating public money, it would appear to the Chair that such action would be in contravention of Section 53 of the *Constitution Act, 1867* which states,

> "Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons".

For this very important reason, I must conclude that the motion of the Honourable Senator Graham is not in order.

Hon. Gildas L. Molgat: Honourable senators, I must with considerable dismay advise the Senate that in view of the citations I quoted last Wednesday from pages 229 and 230 of *Beauchesne's*, regretfully I have no alternative but to appeal the Chair's ruling.

[*English*]

The Hon. the Speaker: Will those honourable senators who wish to sustain my ruling please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators who oppose my ruling please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

● (1430)

The Hon. the Speaker: Please call in the senators.

● (1440)

The Hon. the Speaker: Let the doors to the chamber be locked.

The ruling of His Honour the Speaker was negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Asselin	MacDonald
Atkins	(*Halifax*)
Balfour	Marshall
Barootes	Molson
Bazin	Murray
Bielish	Ottenheimer
Cochrane	Phillips
Cogger	Robertson
David	Roblin
Doody	Rossiter
Doyle	Spivak
Flynn	Tremblay
Kelly	Walker—25.

NAYS

THE HONOURABLE SENATORS

Adams	Kenny
Austin	Kirby
Bonnell	Langlois
Bosa	Leblanc
Buckwold	(*Saurel*)
Cools	LeBlanc
Corbin	(*Beauséjour*)
Cottreau	Lefebvre
Croll	MacEachen
Denis	Marchand
Fairbairn	Olson
Frith	Petten
Gigantès	Stanbury
Grafstein	Steuart
Graham	(*Antigonish-*
Guay	*Guysborough*)
Hastings	Stollery
Haidasz	Thériault
Hays	Turner
Hébert	van Roggen—37.
Hicks	

ABSTENTIONS

THE HONOURABLE SENATORS

Pitfield—1.

The Hon. the Speaker: Let the doors be opened.

WESTERN ECONOMIC DIVERSIFICATION BILL

THIRD READING

Hon. R. James Balfour moved the third reading of Bill C-113, to promote the development and diversification of the economy of western Canada, to establish the Department of Western Economic Diversification and to make consequential amendments to other acts.

Motion agreed to and bill read third time and passed.

● (1450)

TOBACCO PRODUCTS CONTROL BILL

SECOND READING—DEBATE ADJOURNED

Hon. Mira Spivak moved the second reading of Bill C-51, to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products.

She said: Honourable senators, even the most jaded observers of the parliamentary scene have resorted to superlatives to describe the passage of the two bills relating to tobacco products—Bill C-51 and Bill C-204. The *Globe and Mail* hailed "unprecedented action by the House of Commons," while Jeffrey Simpson, in his usual purple prose, referred to a "wonderfully iconoclastic series of developments" and dubbed as heroes both the Honourable Jake Epp and Lynn McDonald.

Frankly, in view of the lethal nature of the product in question, recently cited in the Surgeon General's report as comparable in its addictive qualities to heroin and cocaine and targeted by the industry in its marketing strategy to those most classic of victims, women and children, I consider the measures proposed in both bills to be relatively mild in nature. But the forceful attempts on the part of an irresponsible industry to stop passage of the bills and the positioning of Bill C-51 as part of the government's national program to reduce tobacco use demand a response of applause and approval for the success achieved, and I certainly share in those sentiments. I am happy to have the honour to speak for Bill C-51 in the Senate.

The president of the Canadian Medical Association, in his appearance before the legislative committee on Bills C-51 and C-204, called these bills "the most important proposed federal legislation for preventative medicine in decades"; legislation comparable in terms of disease prevention and health promotion to laws requiring the pasteurization of milk and the chlorination of water.

The purpose of Bill C-51, to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products—the Tobacco Products Control Act—is stated in clause 3 of the bill, namely: to protect the health of Canadians in the light of conclusive evidence implicating tobacco use in the incidence of many debilitating and fatal diseases; to protect young people from inducements to use tobacco and thus become addicted, that is, to eliminate future smokers, if possible; and to enhance public awareness of the hazards of tobacco use.

Briefly, the essence of the bill is to outlaw gradually advertising of tobacco in all media; to put tight restrictions on tobacco company sponsorship of cultural and sporting events; to prohibit free promotional distribution of tobacco products—cash rebates and games or contests designed to encourage tobacco use; and to require tobacco companies to include more detailed and explicit health warnings on cigarette packages. This bill, however, is just one part of a wide-ranging government anti-smoking policy begun in 1985. Recognizing smoking as Canada's leading public health problem, as the number one cause of preventable death and disease in this country, the Minister of National Health and Welfare, together with provincial ministers and major health groups, made a joint commitment to develop a national program to reduce tobacco use, a program aimed at promoting and eventually achieving a smoke-free society. The impact of tobacco marketing activities has been identified in the national programs policy statement as a major hindrance in the reduction of smoking, most especially among youth. In testimony before the House legislative committee, tobacco companies testified that they were targeting their market toward young people in order to make sure that they were marketing their product correctly to their customers.

Before describing the specific measures of the bill in more detail, perhaps it is important for the record in this chamber—although thousands of words of testimony have been offered in the House of Commons—to again delineate the context against which this bill comes forward.

As has been stated previously, cigarette smoking is the single most important cause of preventable illness and premature death in Canada. No other legal product, when used as directed, produces such terrible effects. One of the members of the House of Commons said, "Le tabagisme; c'est vraiment un fléau"—34,000 to 36,000 deaths annually in Canada are related to smoking.

Thirty per cent of all cancer deaths, 30 per cent of heart disease deaths and 85 per cent of chronic obstructive lung disease deaths are caused by tobacco use. Smoking is directly linked as well to a variety of upper respiratory infections, chronic bronchitis and emphysema, strokes, peripheral artery diseases, peptic ulcer disease, as well as cancers of the mouth, throat, esophagus, kidney, bladder and pancreas.

In 1988 an estimated 13,000 people will die of lung cancer, most of them as a result of smoking. Lung cancer soon will replace breast cancer as the most prevalent form of cancer among Canadian women.

Some women are particularly susceptible to smoking-related illness. Smokers who use oral conceptives are ten times more likely to suffer fatal heart disease. Pregnant smokers suffer more vaginal bleeding, spontaneous abortions and fetal death.

Low birthweight in children of smokers has been linked to development problems as late as age 11.

It has been estimated in a study in the Canadian Medical Association's Journal in 1987 that about 300 non-smokers die annually from lung cancer induced by exposure to other people's tobacco smoke. Sidestream smoke is more toxic than inhaled smoke, containing four times as much of the carcinogens as the inhaled smoke.

Use of smokeless tobacco—chewing tobacco and snuff—has become widespread in the Northwest Territories. Smokeless tobacco causes cancer of the mouth, pharynx, larynx and esophagus. It also causes a variety of dental problems.

Most importantly, the level of awareness in Canada about some of the serious hazards of cigarette smoking is very low. In a Gallup national omnibus study in 1987, paid for by the Canadian Cancer Society and by the Non-Smokers Rights Association, Canadians were asked about perceived health hazards related to smoking. An astounding 71 per cent did not know that smoking causes heart diseases, while 59 per cent did not mention lung cancer. Obviously, these results suggest that the health education efforts of agencies working in the health field cannot compete against tobacco advertising—in the words of the World Health Organization, the "intensive and ruthless promotional campaigns of the trans-national tobacco companies." Advertising reinforces and may help create a climate of social acceptability for smoking, what the minister has called "a falsely alluring image."

● (1500)

In Canada the tobacco industry has spent $96 million a year on advertising, primarily to recruit young smokers. The insidious part of this is that this marketing of tobacco products results in addictive behaviour, which usually begins before adulthood.

Canada is one of the top ten countries in the world in per capita consumption of cigarettes—50 per cent higher than in Norway and Finland, where advertising has been banned. Approximately 34 per cent of all Canadians over 18 smoke, one-quarter of Canadian teenagers smoke daily, and, sadly, although the proportion of smokers in Canada has been decreasing, the number of young Canadian women smoking continues to increase. In testimony before the House committee, the Minister of National Health and Welfare estimated that health and other related costs of smoking were in excess of $7 billion in 1982 figures.

Now, as to the specific provisions of Bill C-51, they include the following: First, with regard to advertising, all advertising in magazines and newspapers would be banned as of January 1, 1989, at which time a voluntary ban on broadcast advertisements would also become mandatory.

Second, billboards, transit posters and the like will be phased out at the rate of one-third of their monetary value and cease on January 1, 1991. Tobacco product advertisements already in place at the retailer's place of business can remain until January 1, 1993.

A sub-amendment introduced in committee mandates that any new brand name billboards or posters put in place after the coming into force of the act will have to include any health warnings that may be prescribed by the government.

Businesses with names like "Cigar Store" or "Smoke Shop" can continue to be so named indefinitely; however, the name of the business could not be used in association with a tobacco product advertisement.

In the legislative committee, tobacco sponsorship recipients involved in sports and cultural activities expressed concerns about restrictions on brand name tobacco sponsorship, although many of them were in favour of the bill. The legislation passed on May 31 allows brand name sponsorship agreements in place as of January 25, 1988, to continue, but only at the 1987 level. Tobacco manufacturers can thus spend the same total amount on these activities as they did in 1987, and how long they continued to do this would depend solely on the terms of the contracts already in place on January 25, 1988. However, no product logo or cigarette depictions are allowed in association with these sponsorships. Unlimited sponsorship using the full corporate name of a tobacco manufacturer would be possible as long as these funds were not added on to an existing brand name sponsorship. This limitation preserves the funding ceiling for brand name activities.

The purpose of the amended sponsorship provisions is to limit tobacco sponsorship using brand names to conditions less likely to promote the use of tobacco products.

Other important provisions of the bill include the prohibition both of free distribution of tobacco product samples and the use of rebates, prizes, contests or other promotional gimmicks.

Tobacco brand names and trademarks may not be used on non-tobacco goods except those already in existence or ordered by the date of first reading of the bill. A further exemption applies to established companies who already have a major line of business in non-tobacco goods that carry a brand name also used on cigarettes.

Health warnings will be mandated for the first time and will be prescribed by the government and authorization is given to demand that detailed inserts be placed in packaging to warn consumers more fully.

One of the reasons given for the inclusion of this provision is because the list of hazardous and toxic substances is so long that you would never get it all on one package. Therefore, it has to be put into an insert. This is the way that drug prescriptions are sold.

Health messages can appear on all tobacco product packaging. This is an innovation. Toxic substances in tobacco are to be reported to federal authorities and listed prominently on packaging. Hopefully this will eliminate such jokes as the current warning which states, "Warning Health & Welfare Canada advises that danger to health increases with the amount smoked—avoid inhaling," and will permit warnings about the addictiveness of tobacco and the diseases it causes

such as lung cancer, heart disease or fetal injury and spontaneous abortion caused by maternal smoking.

Another major provision of the bill was the retention of civil liability on the part of tobacco product manufacturers for the safety of tobacco products. The act may not be construed as a legal defence in any civil liability case that may arise—that is, the legal requirement that health warnings to be prescribed by the government be placed on tobacco packaging would not preclude any decision by the courts that manufacturers may still be liable to consumers for the hazards of their products.

Honourable senators, there are a couple of other points I would like to make about this bill.

First, some good arguments were made in the House committee against the contention of those who argued, as the tobacco industry will surely argue in the courts, that the government bill is inconsistent with the freedom of speech provisions of the Charter of Rights and Freedoms—an argument to which senators are becoming increasingly sensitive and with which they are becoming increasingly familiar. I will only repeat some of them here. The right to freedom of speech, it was said in committee, surely does not supersede the right to health; the right of families to be free from suffering; the right of a child not to be involuntarily abused by smoke; and the right of a person not to be assaulted by smoke pollution of the air.

Limits now exist on the freedom of speech and on commercial speech—that is, advertising. Physicians are not allowed, ethically or legally, to advertise their services to the public. The law prohibits the advocating of suicide or the promotion of street drugs, such as speed, many of which are no more addictive than tobacco. All prescription drugs are legal to sell but illegal to advertise to the public. Many limits on the concept of free speech exist in a democratic society as a response to those problems caused by licence in the exercise of free speech. Mr. David Hill, National Vice-President of the Canadian Cancer Society, put it very well when he said, as reported at page 16-103 of *Hansard*:

> By invoking free speech in its opposition to Bill C-51 . . . by attempting to cast a phasing out of tobacco advertising as an attack on consumer choice, the industry disregards strong legal precedent for measures to protect the public from hazardous products and shield children from advertising, the accuracy of which they are ill-equipped to evaluate.
>
> The argument in favour of the consumer's right to choose his own poison cannot stand up to scrutiny when the consumer is deliberately victimized, endangered and duped by an irresponsible industry peddling misrepresented addictive and lethal products. There is little freedom in addiction, on a cancer ward or in a chronic-care facility of any hospital.

No discussion of Bill C-51 would be complete without mention of the efforts of a coalition of voluntary organizations, most of them health organizations, without whose consistent, determined and brilliant advocacy this bill could not have been a reality. In a sense, the tobacco industry is hoisted with its own petard. The tobacco industry, vaunted for its marketing strategy, used that skill in an attempt to defeat the bill; the coalition groups matched and exceeded the industry through an advertising campaign in support ot the bill—and a lobbying campaign, I might add.

If the industry made statements that were not only preposterous but also dangerous to their fellow human beings—such as denying that the link between smoking and disease has been proven—the coalition cited facts more chilling than fiction, such as there are in fact now over 50,000 scientific studies from a variety of cultures around the world showing that smoking causes cancer and other diseases. A fascinating contest in which the good guys won, we hope!

Senator Frith: Which is it—that they were good, or that they won?

Senator Spivak: Let us hope that this same coalition lives on to battle against other environmental hazards threatening human health and survival—for example, mosquitoes in Manitoba or the armaments industry.

● (1510)

Honourable senators, these coalitions, the government, concerned members of the House and the public are looking for speedy passage of these bills. It is twenty-one and a half years since the Canadian Medical Association first recommended to Parliament that it prohibit tobacco advertising. I hope that we all agree that that is long enough to wait and that we should pass these bills quickly.

Some Hon. Senators: Hear, hear!

Hon. Henry D. Hicks: Honourable senators, I propose to support this bill, but I must confess frankly that it has been difficult for me to come to that decision. Tobacco is still a legal product in our country, and I think it is a serious matter for us to deny the right to advertise, a form of free speech, as Senator Spivak pointed out in her very good presentation of the arguments in favour of supporting the bill. It still troubles me that we are prohibiting freedom of speech in the form of advertising in relation to the sale of a product which is still legal in our country. However, I have thought about this matter for a long time. I have discussed it with a good many of my medical friends whose opinions I respect. I have read carefully all the information which has been sent to me as a senator, both by the various coalitions who are in favour of this legislation and of Bill C-204 and by the tobacco manufacturing industry in their attempts to show that the restraining of advertising in certain other countries of the world has not had a noticeable effect in reducing the amount of smoking in those countries. In other words, the two countries to which Senator Spivak referred had a lower level of use of tobacco prior to the ban on advertising. Of course, they have maintained a lower level since advertising has been forbidden.

I must also say that I was impressed by a very good letter from the Canadian Teachers' Federation representing views of the many hundreds of thousands of teachers throughout this country who have come to the conclusion—correctly, I think, because I have questioned some of them in my own province of

Nova Scotia—that advertising does in fact have an influence on very young people and that it does contribute toward their adoption of this dangerous habit. I am convinced now beyond any doubt—five years ago I was not—that the use of tobacco is a dangerous health hazard and does, in fact, lead to a much greater increase in the incidence of disease and death in respect not only to cancer but to certain heart diseases, respiratory ailments and so on.

So, having regard to all these arguments and to the danger of the product whose advertising we are banning, I propose to support the legislation. I suspect that it will be tested in the courts and it will be interesting to see what the courts decide. It may be that we or our successors here in the not-too-distant future will be faced with the question of whether we should make the use of tobacco illegal. I must say that I think I would start off being pretty well opposed to that idea. It did not work with prohibition. In a recent edition of *Time* magazine there was even rather intelligent speculation as to whether we might be able to control the use of drugs better if some were made legally available. In any event, this is all beyond the arguments that go with this legislation. As I say, with the reservations I have referred to, I have decided, with some reluctance, I may say—I have never smoked at all during my life, so I have no personal involvement whatsoever—to support Bill C-51 and also Bill C-204 when it comes before us.

Hon. L. Norbert Thériault: Honourable senators, I have a question for Senator Spivak with regard to the proposed Free Trade Agreement. By the way, I support the bill. I am a non-smoker now, because I had to stop, and, thank God, I was able to. I, too, like Senator Hicks, have some reservations about the legality of this legislation and about what will happen when we pull out all these restraints. We in New Brunswick have forbidden the advertisement of liquor, but we are nevertheless flooded with advertising from Quebec, the State of Maine and other areas through television and magazines advertising beers, wines and liquors of all kinds. I would like to ask Senator Spivak: Will there not be a tendency by the tobacco companies to increase the amount of advertising they do in foreign magazines and on foreign television and radio stations?

Senator Spivak: Honourable senators, this point—

The Hon. the Speaker *pro tempore:* Senator Spivak, perhaps you should wait until honourable senators have discussed the principles of the bill, after which you will have all the time you want to answer questions.

Senator Hicks: Surely the honourable senator can answer the question that was put to her directly by Senator Thériault.

Senator Thériault: Your Honour, I asked permission to ask a question. Are you now ruling that I cannot—

The Hon. the Speaker *pro tempore:* If it is not considered that the honourable senator is closing the debate in answering your question, then she may so answer.

Senator Spivak: Honourable senators, this question was discussed quite thoroughly in the House committee meetings. Apparently 65 per cent of advertising of tobacco and tobacco products is now done in American magazines. However, the point is that these magazines cannot advertise Canadian cigarettes. They can advertise only American cigarettes. A very small percentage of American cigarettes is accepted by the Canadian public. I think it is something like 1 or 2 per cent.

Senator Thériault: Under what law are companies prevented from advertising Canadian cigarettes in American magazines?

Senator Spivak: It is my understanding that this legislation prevents Canadian companies from advertising Canadian cigarettes, but I can check on that.

Senator Thériault: In other countries?

Senator Spivak: No Canadian company can advertise Canadian cigarettes in such publications, though those publications can advertise American cigarettes. I would point out that this applies only to magazines. You must remember that there is a voluntary ban by the broadcasting industry in the United States on cigarettes, as there is in Canada. We do not know what the Americans are likely to do as a result of this bill. I hope they will be as convinced by the arguments as are some other countries which were consulted with regard to this legislation, countries such as Australia and New Zealand. We hope that the Americans will look at this very good example in Canada and perhaps introduce similar legislation, or at least continue the voluntary ban. No one can remain immune forever to the disastrous effects of a product like this and take no action, particularly when the advertising is targeted toward, as I said, women and young children. That is my understanding as to the provisions with regard to American advertisements.

Senator Thériault: Will this legislation interfere in any way with the proposed Free Trade Agreement?

Senator Spivak: I asked this question of officials and apparently the Free Trade Agreement is not an issue here.

Senator Thériault: Perhaps it is not an issue now, but could it become an issue?

Senator Spivak: My understanding is that it is not the issue.

On motion of Senator Flynn, debate adjourned.

NON-SMOKERS' HEALTH BILL

SECOND READING—POINT OF ORDER—DEBATE ADJOURNED

Hon. Stanley Haidasz moved the second reading of Bill C-204, to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising.

Hon. Orville H. Phillips: Honourable senators, I rise on a point of order. I should point out, first of all, honourable senators, that Senator Haidasz now has two bills in his name amending the Hazardous Products Act, S-4 and C-204. *Beauchesne's* paragraph 701(3) says:

> . . . if a decision of the House has already been taken on one such bill, for example, if the bill has been given or

refused a second reading, the other is not proceeded with if it contains substantially the same provisions and such a bill could not have been introduced on a motion for leave.

Honourable senators, it is my understanding that Bill S-4 has received second reading and been referred to committee. Therefore, I suggest the procedure we should follow is to have Senator Haidasz dispose of S-4 before proceeding with C-204.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I believe the citation referred to by Senator Phillips refers to an introduction of two bills in the same house, not to a bill from one house that arrives in the other house while it is considering a similar bill introduced there. Otherwise, if you interpreted it the way Senator Phillips has, you could paralyze Parliament. If that were true, then by introducing a bill in one house you could prevent anything being done in the other house. I am sure that the intention in *Beauchesne's* is to prevent its happening in the same house.

Hon. Jacques Flynn: That is a very interesting argument, coming from Senator Frith, that he is afraid of paralyzing Parliament. He has been doing his best to do that here for three years.

Senator Frith: "I," paralyze Parliament? Have you looked at the number of bills that have been passed by this Parliament? Are you not proud of them? Was that paralysis? Don't talk such nonsense, for goodness sake! Speak to the point of order.

Senator Flynn: I hit a very sensitive spot.

Hon. H.A. Olson: No, no. You are dealing with the facts now. That is the problem.

Senator Flynn: In any event, the fact is that we have already decided in principle on Bill S-4 and we cannot make a similar decision a second time in the same session. That is the case. Perhaps Senator Haidasz prefers this bill to his own, S-4. In that case, perhaps he could withdraw his first bill and concentrate on this one. We certainly cannot deal with two bills covering the same ground during the same session. That seems to me to be obvious.

Senator Haidasz: I should like to speak to Senator Phillips' point of order. I do not know whether His Honour the Speaker will want to make a ruling. Bill S-4 has been in committee for a year and a half. The members of the committee actually wanted to study all bills on tobacco smoking at the same time. It was my intention—and it still is now—to amend Bill S-4. In other words, it will be somewhat different from Bill C-204, if it is approved by the committee.

Senator Flynn: I think you validate the point of order raised by Senator Phillips, if you intend to make your bill absolutely similar.

● (1520)

Senator Frith: Honourable senators, I move that we adjourn the debate on the point of order and reflect on this overnight to see if we can come to some understanding, because it seems to me that the Senate does want to deal with this subject. I am sure that we can find a way to do so.

[Senator Phillips.]

The Hon. the Speaker *pro tempore:* Honourable senators, is it the wish of the Senate that I give a ruling on this now or that the debate be adjourned?

Senator Frith: Honourable senators, I move that we adjourn the debate on the point of order. It may be that we will not have to ask for a ruling.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, that we adjourn the debate on the point of order?

Hon. Senators: Agreed.

Senator Haidasz: Honourable senators, I should like to know whether I can proceed with the second reading of Bill C-204 or must wait until tomorrow to hear His Honour's ruling?

The Hon. the Speaker *pro tempore:* Honourable senators, a motion has already been put and accepted that we adjourn the debate on the point of order until the next sitting of the Senate. Senator Haidasz cannot proceed with second reading now. Senator Haidasz will have to wait until an arrangement has been made between the two parties or until I make a ruling, but Senator Frith has moved that we adjourn the debate on the point of order.

Senator Frith: Honourable senators, we are actually adjourning both the debate on the point of order and the debate on the motion standing in the name of Senator Haidasz.

The Hon. the Speaker *pro tempore:* Is it agreed that we adjourn both matters, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Frith, debate adjourned.

[*Translation*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Neiman, seconded by the Honourable Senator Cottreau, for the adoption of the Twenty-First Report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei, with two amendments) presented in the Senate on 25th May, 1988.—(*Honourable Senator Hébert*).

Hon. Jacques Hébert: Honourable senators, those of you who did not have to sit on the Standing Committee on Legal and Constitutional Affairs to consider Bill S-7 on Opus Dei should consider themselves blessed by the Gods! They were spared long and tedious discussions, the sickly sweet and ambiguous evidence of the rare witnesses who did appear,

among others the Reverend Haddock, leader of Opus Dei in Canada, and a few lawyers.

Very early on an attitude prevailed within the committee, an attitude which all of us did not take but which did get the sometimes tacit approval of the majority of committee members, to wit: the committee—and the Senate, undoubtedly—does not have to question the relevance of Opus Dei tenets and its equivocal origins in Spain under Franco for whom the movement did feel genuine sympathy. Nor were we to be concerned over the many scandals which have highlighted the history of Opus Dei in Spain, France, Italy and elsewhere, scandals of a financial nature in most cases. We were to refuse to hear evidence from outstanding Catholics, priests and laymen alike, who vigorously denounced Opus Dei, even in Canada. We were to disregard serious complaints from Canadian parents whose young children have been indoctrinated by Opus Dei, much in the same manner as other children were indoctrinated by Moonists, Scientologists, Khrishnas or other bizarre cults. Nor were we even to hear the testimony of a former colleague, Jean Le Moyne, whose expertise in such matters has been acknowledged even by the Catholic hierarchy that had sought his advice about the position the Canadian Church should take during the Vatican II Council. In short, the committee could not have cared less and decided an examination of the legal aspect of the Opus Dei request would suffice.

I disagree. Senate committees have long been known to make in-depth studies, to go over the minute details of legislative measures with a fine-tooth comb. Allow me to use an example—extreme though it may be—to explain my thoughts. Let us imagine that Evangelist Swaggart or Bakker or, worse still, a successor of Reverend Jones—yes, he who was held responsible for the horrible Jonestown massacre in Guyana—had appeared before us and made the kind of request we have from Opus Dei. Would our reaction have been the same? Would we have said: It is a well-known church. At least one United States President, pious Jimmy Carter, publicly endorsed. It claims to be working to save souls, so we do not want to know anything more? After all, since Confederation we did grant the privilege of special legislation in 20 other like cases without asking too many questions. So a precedent does exist and it would be bad manners on our part to act more scrupulously towards a church, founded though it might be by a Swaggart, a Bakker or a Jones, on the pretence that its past is, to put it mildly, worrisome.

Honourable senators, I am sure you will agree with me that we would not have invoked precedents to limit ourselves exclusively to the legal aspect of the matter. Rightfully, we would have scrutinized every little detail with a magnifying glass, undoubtedly as we ought to have done in the 20 cases we refer to as precedents.

[*English*]

Why should the Canadian Senate give a certificate of approval, indirect as it may be, to the Prelature of the Holy Cross and Opus Dei, an organization which is controversial both inside and outside the Roman Catholic Church?

Senator Le Moyne, Senator Corbin, Senator Gigantès and I and others have pointed out the troubling aspects of Opus Dei: the questionable preachings of its founder; its close association with the Franco government and with other fascist regimes like the Pinochet regime in Chile; the many controversies concerning its involvement in financial and political circles; its dubious recruitment practices and troubling rumours of flagellations and mortification. We felt it was necessary to be critical of Opus Dei and to make known certain aspects of the group asking for the passage of a private bill. As Senator Le Moyne stated in his speech on June 2, 1987, referring to our century:

> We can speak here without undue exaggeration of a real mutation of human understanding, and conclude that as the essence of modernity, criticism constitutes the very legitimacy of the age. Thus is guaranteed the freedom we are now exercising.

If Opus Dei can exist in Canada because of the religious freedom we all value, we also have the right to criticize this organization and to put forward facts about it which might otherwise be overlooked. We all hate to be criticized, but we have to accept that at least some criticism may have validity. Opus Dei, however, deems any criticism of its work and history unacceptable and worthy only of violent denials. It dismisses our criticisms of Opus Dei as calumnies and our presentations as dishonest fabrications. Statements of fact concerning the questionable maxims of its founder, its close ties with Franco's fascist regime, the extent of its holdings, its unequivocal position within the right wing of the church and the opposition of most bishops, priests and parishioners to its methods and its arrogance are responded to in the same way as allegations concerning its approval of mortification, its involvement in financial and political scandals and its undue influence within the church. Opus Dei treats almost everything said against it as lies or manipulation of facts. As the Vatican Affairs writer for the *National Catholic Reporter* says in the February 6, 1988, edition of the *Tablet*, Opus Dei "denies that it is a 'movement' and, indeed, denies almost anything that is said about it".

Another Opus Dei tactic is to downplay the importance of statements concerning its activities. It will say: yes, we are in the conservative wing of the church, but we are not much involved in the debate over liberation theology and the church's dogma; yes, there are maxims calling for mortification, but today it is left up to the individual to decide; yes, we were around when Franco and other dictators were in power, but we had nothing to do with them; and, yes, we are represented throughout the world and have members in key positions, but we do not have much influence. Even if it admitted that there were excesses in the past, Opus Dei would be likely to say that it is unfair to judge it today by its past record.

But has Opus Dei really changed over the years? The answer is no. In Spain, for example, Opus Dei, while denying its involvement, is still, just as during Franco's regime, associated with the suppression of journalists and academics who do not favour its policies. Only this past November the

Jesuit Father Pedro Miguel Lamet, the editor of *Vida Nueva*—the most widely read religious journal in Spain, with a circulation of 20,000—was dismissed from his position. The January 9, 1988, issue of the *Tablet* attributes the dismissal to pressure from right wing circles in the church, including, notably, Opus Dei. Other journalists have resigned from the paper to protest the dismissal of Father Lamet, who, in his valedictory article in *Vida Nueva*, talks of a growing atmosphere of silence and fear in the church.

• (1530)

Some might dismiss this as an isolated case, but those who are aware of the debate within the church on liberation theology, the resurgence of revisionist influence and the role of movements and ministries know that there is a malaise within the church which is not yet grabbing all the headlines but which, nonetheless, exists. Why should the Canadian Senate take sides in this debate by agreeing without question to what Opus Dei wants? The fierce debate on the laity at last fall's synod of bishops illustrates the concerns of many within the church on the role of lay movements, such as Opus Dei. Some honourable senators have said that no attention should be paid to the religious and theological issues when considering the bill. Is this a realistic approach, in view of the participation of the organization making the request in a debate permeated by religious issues? Furthermore, can we, in all conscience, ignore the fact that the positions taken by Opus Dei in this debate cause great unease among many Catholics and non-Catholics alike? Honourable senators, in this respect, I will deal with two issues: Opus Dei's views on the role of women and the group's arrogance.

In his speech of June 2, 1987, Senator Le Moyne pointed out the sexist attitude of Opus Dei and, as he called it, the "quagmire of clichés on the role of women in contemporary society" contained in the statements of Escrivà de Balaguer, the founder of the organization. Indeed, the Canadian Senate should have nothing to do with a group that holds views which many women find offensive. During last fall's synod on the laity, according to the issue of the *Tablet* of February 6, 1988, the report of one of the Spanish-language groups, of which Monseigneur Alvarez Portillo, Prelate of Opus Dei, was a member, dismissed the feminist movement as being "highly ambiguous" and "alleged, without offering any evidence, that it was 'an ideological deformation of the truth' ". Lest anyone think this is a general feeling within the church, I should point out that the report of another Spanish-language group "boldly denounced the 'cultural machismo that exists in Catholic countries' because it 'is lacking in respect towards women' ". The cavalier attitude of Opus Dei members towards the debate on the role of women within the church and within society as a whole comes across clearly in an article by Russell Shaw, a member of Opus Dei in the United States, in the February 27, 1988, issue of the *Tablet*, entitled "Judged by Opus Dei". Mr. Shaw states, on page 235:

> . . . the prelature's—

that is, Opus Dei's,

[Senator Hébert.]

> —insistence on maintaining separate activities for the spiritual formation of men and women is anathema to Catholic feminists who suppose that virtually any acknowledgement of differences between the sexes means treating women as something less than equal. Yet, serious as it is in the minds of those whom it exercises, this is in fact a comparatively superficial matter.

Thus, those who dare question the Opus Dei's attitude towards the participation of women in its work are branded as feminists and their concerns are dismissed out of hand. One has to wonder if the questions of equal pay for equal work, battered wives and the role of women in developing countries are also treated as "comparatively superficial matters." Does the Senate want to have its name linked to a group that holds such views?

The resentment shown by Opus Dei members when responding to criticism is typical of a group that has often displayed its holier-than-thou attitude. Senator Le Moyne quoted note 399 of Opus Dei's founder, from his famous book *The Way*, which indicates the attitude of Opus Dei:

> 399. If we resort to force to prevent a man from committing suicide, thus saving a life and earning general plaudits, why should we hesitate to use the same coercion—holy coercion to save the Life—

with a capital L,

> —of those who are bent on stupidly killing their own soul?

In other words, only Opus Dei members know what is right, and other people should imitate them instead of blindly going about their lives in the way they, themselves, see fit. Has time tempered the zeal of Opus Dei members and made them more tolerant of the views of others? No, not really. In an editorial in *Le Devoir* of May 11, 1987, it is stated:

[*Translation*]

> It was not to seize power in Spain nor to exert some influence on wordly affairs that Mgr Escrivà de Balaguer founded Opus Dei, but to save the society of his time—

All of us!

> —from its mistakes and its misfortunes, by leading "the way" to a new crusade, that of secular technocrats vowing to live an ideal of perfection for them and for their circle. A modern chivalry of the professional duty.

[*English*]

Whose ideal of perfection are we talking about? Opus Dei's ideal of perfection? This arrogance is also evident in Mr. Russell Shaw's article in the *Tablet*, where he states, on page 236:

> Ideally, Opus Dei contains the seeds that might eventually ameliorate the current excesses in American Catholicism and thereby eliminate conflicts among Catholics.

In other words, when all Catholics think like the members of Opus Dei, there will be no more conflicts within the church in the United States and, eventually, the world. If this is an indication of the level of tolerance within Opus Dei towards

people with different views within the Roman Catholic Church, one can only imagine how people outside the church are regarded. Does the Senate really want to encourage a group that has such a negative attitude towards Catholics who disagree with it and that is not likely to have a more tolerant attitude towards non-Catholics?

Indeed, in the preamble of the bill before us one of the objects of Opus Dei is stated as being:

> . . . to promote and encourage, among members of society in general, the pursuit of personal sanctification by means of ordinary work;

In clause 3 of the bill, paragraphs (*b*) and (*c*) read as follows:

> (*b*) to promote and encourage, among persons in all walks of life, the pursuit of personal sanctification by means of ordinary work; and
>
> (*c*) to prepare and encourage persons in all sectors of society to give effective Christian witness in their daily activities.

Thus, it is not just the members of Opus Dei who will be affected by the incorporation of the Regional Vicar, but all Canadians, and especially the adolescents who may, at one time or another, be encouraged to participate in activities sanctioned by Opus Dei or see their lives influenced by its activities. Canadian society as a whole will be affected by the passage of this private bill.

● (1540)

May I remind honourable senators of our responsibilities in such matters by quoting from the book by F.A. Kunz, *The Modern Senate of Canada, 1925-1963. A Reappraisal*. On page 210, he says:

> In addition to being a jury hearing petitioners and adverse parties the Senate in considering private bills shows great precaution in protecting the interests of the public at large. In so doing it does not hesitate to amend or even to reject private bill petitions.

The Standing Senate Committee on Legal and Constitutional Affairs was told that private bills are not by their nature designed to serve a public interest. Since nothing in the bill is prohibited by an act of Parliament, the bill itself, as an instrument of incorporation, cannot be said to be contrary to the public interest. However, it is still up to the Senate to decide whether it is in the interest of the public at large for the Canadian Senate to be involved in the incorporation of a group that is highly controversial within the Roman Catholic Church and that has demonstrated attitudes and methods that often hurt the free and tolerant society Canadians cherish.

Because of the religious freedom in our country, it is argued that we should not pay attention to the religious aspects of the issue, but simply pass the bill as we would any other request for incorporation. Because similar bills have been approved in the past with little discussion on their merits, there is a body of opinion that holds that this bill should be no exception. However, such an attitude leaves the door open to abuse; the Senate should be very careful in its approach to bills of this nature.

A controversial religious group is petitioning the Senate for a favour; yet an examination of the group's aims and methods is not deemed necessary simply because it is a religious group. The question we should be addressing is whether or not it is in the interest of the Canadian public for the Senate to become involved at all with this group.

The point is made that, since Opus Dei was granted the status of a personal prelature by the Pope in 1982, the group's only recourse is to become a corporation sole, which, in view of existing laws, can only be established by a private bill in the Senate. But we seem to be forgetting that it was Opus Dei itself that, in the 1960s, lobbied the leaders of the church to obtain the status of personal prelature. It is only because of that change in its status that the Canadian Senate must now try to accommodate Opus Dei. Why must the Canadian Senate be so generous to a group that has little tolerance for some elements of its own church, that has a legacy of involvement in political and financial circles that favour one group rather than society as a whole, and that, despite its denials, still covers many of its activities with a screen of secrecy?

There is another passage in Kunz's work on the Senate of which we should take note. On the subject of private bills, he states, on page 209:

> The provisions governing publication and filing of petitions as well as the notification of any person who might be affected serve the purpose of enabling all concerned to have every opportunity to present themselves before the Senate and dispute, if necessary, the bill's passage.

By limiting our discussions in committee to the legal aspects of the bill and by refusing to hear all persons who wanted to speak on all its aspects, have we not failed to give every opportunity for people to make their views known? Opus Dei has been active in Canada for 30 years and, despite its change in status in 1982, it has continued its work without a federal charter. It can operate for another year or more without one. The Canadian Senate does not have to rush to pass this private bill and, indeed, should pay attention to all aspects of the issue, something it has the right and duty to do.

[*Translation*]

Honourable senators, we are all proud to live in a democratic nation where the individual's freedoms are now based on a Charter of Rights, a nation where each one is free to establish the most bizarre organizations and to propagate the most peculiar cults, including those that may have a negative impact on our society by poisoning the minds of our youngest citizens.

To me and to a number of my most distinguished colleagues, Opus Dei is a kind of bizarre and dangerous cult with a totalitarian streak that teaches blind obedience rather than freedom.

In spite of everything, in the name of freedom itself, I would be ready to fight for Opus Dei having the right to propagate its utter nonsense. However, by opposing Bill S-7 we are in no way limiting Opus Dei's freedom. I had a proof of that in

committee, in the evidence brought by its regional vicar himself, Reverend Haddock. Let me quote briefly from the exchange I had with Opus Dei's leader in Canada on February 27, 1988:

SENATOR HÉBERT: How long has Opus Dei been in existence in Canada?

THE RIGHT REVEREND HADDOCK: Thirty years.

By the way, I wonder why in the committee's minutes, a mere Reverend is called Right Reverend. I am only quoting from the official record.

SENATOR HÉBERT: And there were no problems or difficulties of any kind?

—for Opus Dei, I asked him.

RIGHT REVEREND HADDOCK: Not to my knowledge.

SENATOR HÉBERT: Opus Dei reached its goals over these last thirty years . . .

RIGHT REVEREND HADDOCK: Exactly.

SENATOR HÉBERT: Opus Dei may own property in Quebec and in Ontario and elsewhere through non-profit organizations under various names, which organizations are vaguely implying that Opus Dei is responsible for the spiritual aspect of their activity. Opus Dei has always acted in that way without difficulty, hasn't it?

RIGHT REVEREND HADDOCK: That is not quite accurate.

At that point, counsel for the reverend stepped in, which allowed us to learn that Opus Dei itself does not own property but its real estate is owned by provincial corporations or loaned by members. In fact, there is talk of multi-million dollar buildings in the plushest districts of Montreal and elsewhere.

Here is the continuation of the testimony:

SENATOR HÉBERT: Opus Dei has been using those buildings as it pleases for 30 years and is still prospering, right?

THE RIGHT REVEREND HADDOCK: Yes.

SENATOR HÉBERT: If Opus Dei is expanding, if it does much on the spiritual, material and other levels, and if it teaches vigorously the theories of its beloved founder, why do you want more? If everything has been fine for 30 years, what more do you want? Opus Dei has been doing as it pleases for 30 years in Canada. Why bother the Senate with a special bill? I don't understand what you want.

The answers were very vague, Opus Dei's style. Father Haddock even gave us this outrageous answer to my question: Since members of Opus Dei might die, he had to have the possibility of buying a plot in the cemetery to bury them. Can you imagine that? What a childish argument, coming from the head of an organisation which, through a kind of front, the *Fondation pour la culture et l'éducation*, owns expensive properties, avenue du Musée in Montreal, right in the centre of the prestigious Square Mile, rue Louis-Colin, rue Plantagenet, avenue des Pins, Redpath Crescent, not to mention the Manoir de Beaujeu, an heritage building. It is really taking the Senate for a ride to say that, without S-7, Opus Dei could not buy a plot in a cemetery.

Father Haddock's counsel came to his rescue and mentioned another so-called legal reason. We have seen that, since 1960, Opus Dei has been pressuring the Vatican to get a change of the Canon law which would allow it to become a personal prelature, whatever that means, and that prompted the request to the Senate. But Canon law governs the Roman Catholic Church, not Canada. It is up to Opus Dei to adapt to Canadian law and not up to Canada to legislate according to Canon law.

But, besides being shaky the argument is also specious. If, as clearly stated by Father Haddock in front of the committee, Opus Dei has been active in Canada for 30 years without problems and without a special statute, why did it ask for one with such insistance in 1987 and 1988, when the change in Canon law which is supposed to justify its request dates back to 1982? What have they been doing during all that time?

None of that makes sense and we have to look elsewhere for the real reasons of the intense lobbying to which many senators were subjected. I will spare you the darkest hypotheses mentioned by opponents of Opus Dei inside and outside the Catholic Church, and I will concentrate on the most benign, at least in appearance.

Because it feels strongly opposed, Opus Dei wants the Senate and eventually Parliament to give it some kind of endorsement, some *nihil obstat* that it would use in its propaganda in Canada and abroad. The Senate is not some kind of Better Business Bureau and it should not deliver some kind of certificate of approval, especially since, in committee at least, we refused to discuss the background, the doctrine and the objectives of Opus Dei.

As I said, the committee was satisfied with considering the legal aspect of the application and raising the principle of precedents, a dangerous principle which seems to exert a great fascination over legislators and justify all sorts of compromise.

The supporters of Opus Dei, an organization which Senator Le Moyne described once as "a pious eel, unctuous, smooth, slippery and illusive", had no intention of discussing its tenebrous past, its dangerous habit of indoctrinating impressionable minds, its deplorable doctrine which Senator Le Moyne had literally destroyed in a memorable speech.

● (1550)

The Opus Dei and its counsels have been quick to realize that their one and only salvation was the sacrosanct principle of precedents which seemed to reassure a number of committee members, completely overwhelmed by the pressures they were subjected to and who wanted to get it over with as soon as possible.

Since, as a matter of fact, there are 20 precedents, the majority of committee members found that they had to approve the Opus Dei's application while moving an amend-

ment to try and force this organization with a questionable past and a well-known penchant for secrecy to submit to the Department of National Revenue financial statements every year. That is the reason why this chamber must deal again today with a slightly amended version of Bill S-7.

But there was so much opposition within the committee to this bill that we unanimously moved a resolution to be conveyed to the government, as Senator Joan Neiman, the chairperson of the committee, explained on May 26 last:

> However, I wish to advise honourable senators that there was complete unanimity in the committee that Parliament should no longer be required to act in the sort of statutory vacuum that appears to exist with respect to corporations sole. Whatever the decision of the Senate might be with respect to Bill S-7, the committee has instructed me to request the Senate to advise the government in the strongest possible terms to proceed as quickly as possible with new legislation respecting the incorporation of non-profit and religious organizations. Furthermore, in doing so, the government should consider very carefully whether there is any continuing justification for the type of corporation sole considered here. If the government decides there is still such a necessity, then it should set out in the new legislation all the necessary safeguards and limits upon its use.

But we had hardly made a decision on exclusively legal grounds when some committee members started to ask some fundamental questions. The most serious is as follows: Had we voted in favour of the amended bill because of the precedents or had we instead created a new precedent, something really none of us wanted to do?

The 20 precedents, extending from 1867 to this day, concerned applications submitted by bishops from various churches which are called different names like "éparques" for the Slovak Church of Byzantine rite. Anyway, the 20 precedents dealt with bishops and churches.

In this case, what are we dealing with exactly? First of all, Father Haddock is not a bishop and does not claim to be. While to this day we had only granted the privilege of simple incorporation, or "corporation sole", to bishops alone, why all of a sudden create a new precedent by granting it to a simple priest?

On the other hand, the 20 cases mentioned involved bishops from Catholic, Protestant and other churches. But is Opus Dei a church? Not at all. In Bill S-7, the petitioner himself describes it as a "secular jurisdictional institution". Such an institution, even if recognized by the Church, cannot be considered a church. However, at the very moment when the committee recommends strongly that the government table an omnibus bill to put an end to this unseemly kind of private bill, at the very moment when our committee states clearly that it is with great reticence that it finally resigned itself, after having hesitated during 14 months, to give Opus Dei the special status which it seeks, the Senate is asked to set two precedents. We announce that, despite the precedents, we no longer wish to grant through private bills the status of corporation sole, even to bishops representing churches. And yet we would grant this privilege to a priest representing a secular institution.

For my part, I think that the committee unwittingly contradicted itself. While invoking in good faith the principle of precedents, they subsequently found out that they were setting two more. But, thank God, it is not too late to get out of this preposterous situation. The Senate could simply return Bill S-7 to committee for further study. Opus Dei, which has exercised its harmful activity in Canada for 30 years through provincial charters, can wait a bit more: after all, eternity is on its side.

A simpler and, indeed, more courageous solution would be for the Senate to refuse categorically to set two precedents and strengthen the vigorous request it has just sent to the government by rejecting Bill S-7 outright. It would earn the admiration and the gratitude of all men and women who value freedom, whether they be Catholic or not, whether they be from the left or the right, whatever their political stripe.

May God grant us this grace. Amen!

On motion of Senator Corbin, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifty-third report of the Standing Committee on Internal Economy, Budgets and Administration (Senators' Travel Policy), presented on Thursday, June 2, 1988.

Hon. Roméo LeBlanc: Honourable senators, I move the adoption of this report.

Motion agreed to and report adopted.

AGRICULTURE AND FORESTRY

WESTERN CANADA—DROUGHT CONDITIONS—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the consideration of the Eighth Report of the Standing Senate Committee on Agriculture and Forestry (drought conditions in Western Canada), presented in the Senate on 31st May, 1988.—(*Honourable Senator Olson*).

● (1600)

Hon. H.A. Olson: Honourable senators, I wish to make a few comments on this report of the Agriculture Committee. When it was introduced last week, I expressed my disappointment that the meeting of the federal minister with provincial Ministers of Agriculture in Calgary last Tuesday did not conclude with a decision to initiate some relief measures for the farmers and ranchers who are suffering as a result of the tremendous drought. I did indicate that I might take a few days to go over much of the drought area to see whether or not there had been any relief in the form of precipitation. I have

done that since last Thursday, and I can report to the Senate that there has been no significant relief from the drought. There was a significant change in the weather pattern in that a very large mass of warm moist air moved into the prairie regions of western Canada and across much of the drought area. I spent several days and, indeed, this morning phoning various places to learn about the rainfall. Indeed, there were some showers, but the amount of relief was small. The rainfall ranged from two-tenths of an inch to half an inch. There was also some violent weather which spawned some tornadoes in central Alberta and some areas close to that violent weather may have received a little more precipitation than I have just indicated. However, generally there has been no significant relief in terms of getting enough moisture to get the grass growing or, indeed, to relieve the situation with respect to crops.

On further checking I learned that the market has not deteriorated as rapidly as some people had expected. That at least is a bright spot for those farmers who have come to the end of their supplies of feed or hay from last year or previous years. So, if some farmers are forced to put their cattle on the market, at least they will find that the price has not deteriorated significantly. It should be pointed out, however, that selling brood cows and small calves in the market at this time of year is highly unusual. Normally this is the time of year when the most profitable gains can be made through grazing cattle on green grass. At least things are different this time as compared to the disaster of the 1930s. Then the farmers who had to sell out, because they did not have grass or feed, hardly got anything for their animals when they went to market.

I hope that the government will recognize that the crisis has arrived for thousands of cattle producers. The crisis is not going to arrive next week, in two weeks or in three weeks' time. Many people have had to make management decisions to get rid of their livestock, because they simply do not have any grass or any more feed for them.

I also want to say that I suppose there is some comfort in hearing Ministers of Agriculture, such as the federal minister, the minister for Saskatchewan and, indeed, Premier Devine, saying that, if at any time there is an announcement of assistance by governments, it will be retroactive and therefore farmers do not need to worry. The worry is that farmers do not know what will be retroactive. For example, no assistance program for the transportation of hay or water has been announced by the federal government at all. I would like to make it clear that the $12 million that was added last Tuesday to the $7.5 million committed in the budget is only useful in the long-term preparations for water supply. It is not an emergency relief measure and no part of that contribution deals with emergency relief for hauling water or transporting water by permanent or temporary pipeline or whatever. So, insofar as emergency relief measures are concerned, that announcement did not add anything to the assistance for people who need it and need it now.

Honourable senators, I conclude by saying that, in my view, the point where it would have been appropriate for the government to make an announcement with regard to emergency relief is some time behind us. It should have been made a couple of weeks ago, because it would have stabilized the price of hay. However, the Ministers of Agriculture, for reasons that I do not understand, have continued to say up to now that the crisis has not yet arrived. They have admitted that there will be a crisis if the drought continues, but they steadfastly maintain that it will be some time in the future. I hope they will change their minds soon and announce a program so that we can keep some of these farmers and ranchers in business, rather than facing this drought situation without any assistance, so that they will be successful and viable livestock producers in the future.

On motion of Senator Frith, for Senator Fairbairn, debate adjourned.

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

NATIONAL FINANCE COMMITTEE INSTRUCTED TO DIVIDE BILL C-103 INTO TWO BILLS

On the Order:

Motion of the Honourable Senator Graham, seconded by the Honourable Senator Neiman:

That it be an instruction of this House to the Standing Senate Committee on National Finance that it divide Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, into two Bills, in order that it may deal separately with Part I, entitled the Atlantic Canada Opportunities Agency, and Part II, entitled Enterprise Cape Breton Corporation.

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

Hon. Jacques Flynn: I believe that Senator Graham has something to say on the substance of the motion, if there is any.

Hon. Royce Frith (Deputy Leader of the Opposition): The substance is so clear that he needn't say anything!

Hon. B. Alasdair Graham: I thank honourable senators for their indulgence in dealing with this particular motion. When I spoke in this chamber on May 26 on Bill C-103, I closed my remarks with a quotation from an editorial carried in the *Cape Breton Post* on May 12 of this year and I believe that the quotation bears repeating: "Why change DEVCO now? It's a good question and the government hasn't answered it."

Let us look first at the title of Bill C-103, an act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other acts. In the government's plan, the evisceration of the Cape Breton Development Corpo-

ration is billed as "consequential and related amendments to other Acts". The Cape Breton Development Corporation is not even mentioned in the title. That is an unfortunate commentary on a great institution which, for 20 years, has been the heart and soul of the Cape Breton economy.

Cape Bretoners have every right to question the government's reasons for separating the Coal and Industrial Development Divisions of Devco since the benefits of this move are not self-evident. Clearly, the government has not made a convincing argument in favour of the reorganization.

I want to recognize that Bill C-103 does have some redeeming features. One can hardly argue with any proposed decentralization of decision-making power to the region. If this actually transpires, the increased likelihood of greater sensitivity to local concerns will be the most positive feature of ACOA. This is not to suggest that initiatives of ACOA should proceed without due regard for the directions of national policy. It is no coincidence that the regional economy least integrated with the national economy, that of Atlantic Canada, is also the least developed.

Honourable senators might recognize that the range of development options provided to ACOA is reminiscent of the original Devco legislation. That framework for government action, initiated in 1967, has proved so successful that ACOA has been given the same tools to attack disparities throughout the entire region. That is a sensible approach. What escapes me and what escapes civic leaders and others throughout Cape Breton is the logic that states that the investiture of ACOA with flexible tools of regional development must result in the divestiture of Devco with respect to its ability positively to influence growth and expansion in the Cape Breton economy. One might well ask, "Why are the tools being given to ACOA and taken away from Devco?"

When speaking at second reading, I identified several shortcomings in the ACOA legislation. While holding those concerns, I recognize the positive aspects of Part I and I look forward to further discussions on Part I in committee. That having been said, Part II and clauses 46 to 50, which deal with Devco in Part III, warrant even more careful consideration.

I spoke of the historic link between the two divisions of the Cape Breton Development Corporation. In closing the debate on second reading, Senator Murray quoted at length from the writing of Professor Roy George of Dalhousie University with respect to the working relationship between the Coal and the Industrial Development Divisions of Devco. Having been present at the birth of Devco and during the first four years of its existence, I know Professor George's analysis to be wrong. I would also point out that this analysis is at total variance with the testimony given to the travelling legislative committee at Port Hawkesbury by the chairman of Devco and the vice-president of the Industrial Development Division.

● (1610)

I also spoke of the social contract forged between the community and Devco through the work of the Industrial Development Division. I quoted the chairman of Devco, Dr. Teresa MacNeil, who stated:

> The social conscience of the Cape Breton Development Corporation has long been made possible by the work it assigned to the Industrial Development Division.

Honourable senators, if ever a government agency won the hearts and the minds of those citizens it was established to serve, that agency is Devco.

I referred as well to letters addressed to federal ministers de Cotret and Murray from the Cape Breton Industrial Area Community Futures Committee. In a letter dated November 23, 1987, the committee stated, in part, and I quote:

> On the basis of the feedback we are receiving from the organizations within the community, it is clear that the Industrial Development Division is perceived as a key component in the development of Cape Breton. While new programs such as Enterprise Cape Breton and the Atlantic Canada Opportunities Agency are welcomed, the Cape Breton community rightfully distinguishes between these initiatives and the status of the Industrial Development Division. The community understands that DEVCO was created by a special act of Parliament; other development programs while significant are, nonetheless, programs.

That letter was written on behalf of a broad cross-section of citizens from all walks of life and all political persuasions. The letter, it is interesting to note, was written prior to the introduction of the ACOA legislation in the other place on December 18, 1987. Yet correspondence from these groups in the interim clearly indicates that their concerns have not been alleviated by the provisions of Bill C-103.

I do not want to take up honourable senators' time by reiterating what is already on the record. I dealt extensively with what I thought were shortcomings in the legislation when I spoke on second reading. I would, however, like to spend a few moments on some additional components of the bill which I believe warrant further and more careful scrutiny.

First of all, Bill C-103 does not speak directly to the transfer of employees from the Industrial Development Division to the new corporation. We might assume that these Devco employees may simply be transferred to Enterprise Cape Breton Corporation; however, the bill is sufficiently vague on this topic that employees of the Industrial Development Division may well be apprehensive about their future.

Second, the bill creates an unusual corporate hierarchy for the new corporation. The legislation provides for a president, a vice-president and a board of directors, yet it does not create a position of chairman of the board. As well, the bill does not provide for an on-site president at the headquarters in Sydney.

Finally, the bill does not stipulate how the assets and the liabilities of Devco will be divided between the two corporations. Clause 44(5) of the bill partly addresses this issue by stating:

> For greater certainty, the administration and control of all property that, on the coming into force of this section,

is held by or leased to the Cape Breton Development Corporation for the use or benefit of the continued corporation are transferred to the new corporation.

This, in my judgment, is not clear enough. I am concerned that the non-coal assets of the Industrial Development Division will go to the new corporation, Enterprise Cape Breton Corporation, while the liabilities of this division remain with Devco. The legislation should be explicit as to the transfer of both the assets and the liabilities to the new corporation.

As I noted in my earlier speech, honourable senators, this legislation is fundamentally flawed by references to Enterprise Cape Breton as a continued corporation, which, in my opinion, it clearly is not.

I moved the motion to divide Bill C-103 because, in my opinion, the government has not paid adequate attention to the future structure, the mandate and the direction of the Cape Breton Development Corporation. What does the future hold for the Coal Division? I have spoken of the possibility of privatization. Surely it is incumbent upon the government to deal with Devco in a comprehensive sense, and yet the government has not indicated a willingness, let alone made a commitment, to further revise the Devco legislation so that the Coal Division may become a fully functioning coal company.

I believe that Devco has proved its worth as an instrument of regional development and should have been strengthened by the addition of Enterprise Cape Breton's financial resources and programs. In that context, Enterprise Cape Breton Corporation would be superfluous, but the government chose to destroy the essence of Devco while giving few thoughts to the continued viability of the Coal Division. That omission is totally unacceptable to me.

The ramifications of this decision require further study. At the same time, our concerns with Part I of the bill are not as profound as those related to Part II and, indeed, clauses 46 to 50 of Part III. Part I is not dependent upon Part II. The integrity of the legislation dealing with ACOA is unaffected. That is why, honourable senators, for a better, a fairer, a more efficient approach in examining Bill C-103, I moved that the bill in question be divided so that the sections dealing with ACOA and Enterprise Cape Breton Corporation might be dealt with separately.

Hon. Finlay MacDonald: Could I ask Senator Graham to refresh my memory and tell us the number of employees in Devco who are concerned only with the Coal Division and the number of employees employed by the Industrial Development Division?

Senator Graham: I do not have the exact figures in front of me, honourable senators, but I would estimate that the Coal Division employs approximately 4,300 to 4,500 people. I do not have the exact number for the Industrial Development Division, but, including the subsidiaries, I would estimate it employs 30 to 50 people. Perhaps Senator Murray is in a better position to respond to that than I am.

Senator MacDonald: Did Senator Graham say "30 to 50 people"?

[Senator Graham.]

Senator Graham: That is my estimate at the present time. As honourable senators are aware, the Industrial Development Division has some subsidiaries. I am not aware of the present employment figures in the entire division plus the subsidiaries, but I would be happy to obtain that information and pass it on to Senator MacDonald.

Senator MacDonald: Is a "subsidiary" a company that has been assisted, or is a "subsidiary" something that is wholly owned? Can Senator Graham give us an example of a subsidiary of the Industrial Development Division?

Senator Graham: There is DARR Cape Breton Ltd., the industrial park, the golf course, amongst other entities, which are owned and operated on behalf of the Industrial Development Division of the corporation.

Senator MacDonald: Does Senator Graham have any idea of the activity of the Industrial Development Division of Devco as opposed to the activity of Enterprise Cape Breton since Enterprise Cape Breton began some short time ago?

Senator Graham: Yes, I do. My contention has been, and has been for quite some time, that Enterprise Cape Breton has served a purpose to a limited degree, but that the Industrial Development Division of the Cape Breton Development Corporation could have served that purpose and, indeed, could serve that purpose today.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I listened very carefully to Senator Graham as he discussed the motion to split this bill. What he really discussed were the arguments that he wished to put forward against continuing the Industrial Development Division of Devco under a new rubric, under a new organization to be called "Enterprise Cape Breton Corporation". He did not enlighten us at all as to what the process is going to be with regard to splitting this bill, if this motion is accepted by the Senate. What will happen? I am appearing tomorrow night before the Standing Senate Committee on National Finance to discuss Bill C-103. If this motion passes, the committee will be under instructions to split that bill. What happens then? We will then have not one but two bills. Are they government bills? Are they Senate bills? What are they? What message will be sent to the House of Commons from the Senate when the committee, acting on instructions from the Senate, reports to this place? What about the problem of the royal recommendation and so forth?

● (1620)

The fact that the honourable senator has ignored these questions entirely in his presentation only indicates to me the soundness of the ruling on this matter that was made earlier today by the Speaker. It indicates to me—and I say this not in a pejorative way—that the decision to overrule the Speaker was somewhat irresponsible. I do not know where this motion is going to take us, if it passes.

Honourable senators, it seems fairly clear to me that Bill C-103—this government measure that has come to us from the House of Commons—will, in effect, be killed. Obviously, quite

apart from the procedural difficulties—even perhaps constitutional difficulties—that will arise, I am opposed and the government will be opposed to splitting this bill. The bill was intended to draw together in one place all of the authority focusing on small and medium-sized business development in the Atlantic region. The Industrial Development Division of Devco had a mandate to deal with those issues. Therefore, the government regards it as essential that that division become part of the economic development family, as it were, that it become part of the ACOA family. That is the reason for Part II of the bill. It is an essential part of the bill.

It seems to me, and it is obvious from what Senator Graham has said, that he is opposed to the substance of Part II, and that what is being attempted here is to stall, or perhaps to block, passage of Part II.

The honourable senator has put forward today and previously various arguments against the continuation of the Industrial Development Division of Devco in its new form as the Enterprise Cape Breton Corporation. He indicated that the twinning of the industrial development activity with the coal mining operation had produced some advantages to Cape Breton that could not be realized if the Coal and the Industrial Development Divisions were separated. I will not say that these advantages exist in the honourable senator's imagination, but I do say that they are certainly theoretical. Nobody that I have heard has been able to provide the solid evidence that this twinning will really produce anything that could not have been produced had the two operations remained separate. Indeed, there is a lot of evidence, to which I pointed in a speech the other day, to show that these two divisions led separate lives. In any case, I also referred the other day to the report of the Cape Breton Advisory Committee, appointed by the present government a couple of years ago, which report recommended a one-stop-shopping industrial development agency separate from the coal operation.

The other argument that the honourable senator used previously and again today is that leaving the coal operation on its own will somehow make it more vulnerable—more vulnerable, in particular, he thought, to privatization. Honourable senators, if it needs saying, I will certainly say it on behalf of the government: Devco is not a candidate for privatization. The coal operation of Devco is not a candidate for privatization. However, even if some future government some years from now decided that it was a candidate for privatization and could find a buyer, it would be no easier to effect that under the proposed legislation than it is under the present legislation. It would still take an act of Parliament to do the deed. In any case, I repeat that the Coal Division and Devco are not candidates for privatization.

The honourable senator has talked about what the Industrial Development Division has done in Cape Breton. He has spoken of the confidence placed in the IDD by its clientele, and so forth; he has spoken of its sense of social responsibility. Again, I ask the question: Why should the sense of social responsibility be any less under the ECBC than it was under the IDD? What has it been doing in its personality or identity as the Industrial Development Division of Devco that it would be impossible to do as the Enterprise Cape Breton Corporation? As I have indicated, the IDD is coming into the economic development family, into the ACOA family, intact. I invite honourable senators to read the bill in this respect. In addition, I will be glad to provide all of the assurances that one can reasonably expect a minister to provide in this situation as far as the employees of the IDD are concerned. When I appear before the committee, I will deal with some of the other specific concerns raised by the honourable senator with regard to the transfer of the assets and liabilities of the one organization to the other.

Honourable senators, I will argue that there are advantages to Cape Breton that will be made possible by the new arrangement. First—and this is the intent—there will be better coordination of federal economic and industrial development activities in Cape Breton. Second, I believe that it will be much more possible to reduce duplication and overlap. Third, we will be providing one-stop shopping in Cape Breton with respect to economic and industrial development, as was recommended by the Cape Breton Advisory Committee and by others who have studied the situation there. How are we doing this? We are bringing the IDD in its new form, the Enterprise Cape Breton Corporation, into the economic development family rather than leaving it twinned to the coal mining operation.

Enterprise Cape Breton Corporation and ACOA will be the responsibility of the same minister. They will have a common president, but, of course, Enterprise Cape Breton Corporation will have its own chief operating officer resident in Cape Breton. Enterprise Cape Breton Corporation, its board and its management will be in a position, I believe, to exert a stronger influence on federal government policies and programs under the new order than has been the case in the past.

• (1630)

Having said all that, honourable senators, I acknowledge readily that there is room for a difference of opinion on this matter. I think it has been demonstrated in the debates that there is room for difference of opinion among people who sincerely want the best for Cape Breton. Will the new organizational setup be an improvement? I believe it will. I believe it will be a considerable improvement. Other honourable senators think not. This is a difference of opinion, but I suggest that it does not call for the vehemence that we have heard, not so much from Senator Graham as from others in the public discussion of this matter. It is not a matter that should call forth some theological or ideological positions.

In terms of the effect of this change on Cape Breton, this is not a radical departure. Some of the lessons that we have learned in Cape Breton from the Industrial Development Division of Devco and from Enterprise Cape Breton, which has been quite an outstanding success, as I indicated the other day, are being applied in the region generally through the ACOA mandate. I regard this—as the government regards this—as an important but evolutionary step. It is progress. While I respect the fact that it is being done against what some honourable senators and others would regard as their better judgment, I

ask honourable senators and others to accept it and to have some confidence in the objects that we have stated in bringing forward these changes, to work with it and to help make it work.

I will stop there in the hope and expectation that we will have an opportunity to discuss these matters at greater length in the committee.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I am brought to my feet mainly to follow very briefly upon the vein of thought opened by Senator Murray when he expressed the view that the Senate had made a mistake and had acted irresponsibly in overruling the Speaker's judgment, a ruling which, in his view, he thought was soundly based. May I add that I found the ruling unsoundly based, without any support even in logic. Certainly it will require considerable evidence to convince me that these bills, if they are divided, have originated and have seen the light of day in the Senate. It will require somebody to show me where a dollar of the public revenue is appropriated by this present bill. It does not appropriate any funds, because the funds that are being spent under ACOA and Enterprise Cape Breton Development Corporation have been appropriated not through this bill but through the Estimates.

That is why we found the ruling unsoundly based. It is fair that I should give our side of the story, though I regret saying that, because, if a ruling is overruled, it is not customary to debate it subsequently.

Let us not read too much into what is happening with regard to the procedure. The Senate may instruct the committee to divide the bill into two parts: one part dealing with the Atlantic Canada Opportunities Agency and the other part dealing with Enterprise Cape Breton Corporation. Bill C-103 is easily divisible. One can look at it and reach that conclusion very quickly. There is nothing ominous in that process, because it is possible that these two bills will emerge from the committee identical in substance to the present bill. It passes my comprehension how Senator Murray can draw the conclusion that an instruction to divide the bill is to kill the bill. That is reaching for a crisis atmosphere that at present does not prevail.

Senator Murray: I should have read these clippings from the *Halifax Herald* for the record.

Senator MacEachen: I should not be diverted, but Senator Murray has referred to an alleged quotation in the Halifax newspaper. Those words have never yet been uttered by me, not yet.

Senator Flynn: Not yet.

Senator MacEachen: So please do not accuse me of an uncommitted act or word.

Senator Murray says, "What has happened?" Is it a government bill? Of course it remains a government bill. It would have been changed in form in the committee and put into two parts. If Part I, which is Atlantic Canada Opportunities Agency, were found acceptable, it could be reported and, likewise, the second part could be reported unamended or amended. I do not see great difficulties with that.

Honourable senators, may I explain why I thought the motion proposed by Senator Graham had merit and still does have merit? First, it has to do with timing. The government has expressed deep interest in having the Atlantic Canada Opportunities Agency put into legislative form. It affects all four provinces of Atlantic Canada.

As Senator Graham has said, certainly those of us from Nova Scotia find greater difficulties and more questions to ask with respect to the Cape Breton policy than for the Atlantic policy as a whole. In order not to impede the progress of the Atlantic Canada Opportunities Agency, we thought it would be better to sever so that each could proceed at its own pace. That makes sense to me, and it could accommodate the minister considerably if, indeed, we want to spend more time on Entreprise Cape Breton Corporation.

Let me say to the minister that I am eager to be convinced that the fears which I have are not based on solid ground. It is for that reason that I have been reading all the information I can get my hands on, and that is why I will be following the evidence in the committee very carefully.

● (1640)

If all the fears which I presently have in my mind with respect to the Cape Breton policy are removed by the evidence, then there will not even be an amendment proposed to the second bill.

Senator Flynn: There will be two bills.

Senator MacEachen: Of course there will be two bills, if this motion carries!

Senator Flynn: Can you change your mind?

Senator MacEachen: There will be two bills.

Senator Flynn: You are talking about two bills.

Senator MacEachen: I talked about the possible pace of treatment of the bills.

But there is a second point—and to me it is an important point: the Cape Breton Development Corporation was brought into being by a separate act of Parliament. The economy of Cape Breton was important enough to justify that Parliament dealt with it separately as a special, important subject. Here, again, we are going to the very roots of Cape Breton economic policy in this particular bill. It is my view that it should be dealt with separately and independently on its own merits. Cape Breton deserves that treatment. It received it when Devco was founded and it should receive it when Devco is to be reshaped.

I can put it more flamboyantly, if the minister wishes. If one had the view that the creation of Devco deserved a separate act of Parliament, one could also take the view that the execution of Devco deserves a separate act of Parliament. Those are the two basic reasons why I thought it might appeal to the minister to have these two important items dealt with sepa-

rately, and why we should ask the procedures of Parliament to accommodate, in a sense, the human political reality.

I have views on the bill itself, but I will not debate them today with the minister. However, he made some points that interested me—particularly the virtue of having Enterprise Cape Breton Corporation integrated into the ACOA family. There are those in Cape Breton who think that that is not a virtue but a vice; that, if it is integrated into the ACOA family, which is to say, if it is integerated into a government department—and that is basically what ACOA is—it will then lose its community identification. Devco will become like a part of any other department and will lose the community identification that it has built up. It will lose its independence and its clout.

That is the contrary argument. We hope that in the committee we will be able to iron these matters out and find out exactly what is to happen. Those are the reasons why it is important that the Cape Breton portion of the bill be dealt with separately.

I mentioned that I was in Sydney, where Devco is headquartered, on Saturday. I found considerable interest in what is happening in the Parliament of Canada. I think that Senator Graham, in making this motion to divide the bill, was asking Parliament to decide the fate of Cape Breton on its merits, and not as part of an overall bill. So that when the judgment is reached, it will be reached clearly and starkly, and not be said, "Well, yes, that was done to Cape Breton, but how could we avoid it when we had to vote for the whole thing as a package?" To remove that—

Senator Flynn: You voted at second reading on the two parts together!

Senator MacEachen: Quite. Senator Flynn has reiterated the obvious. It is true that we dealt with it. We had no choice, but now we have a choice. The dividing of the bill does not have ominous difficulties at all. It is breaking new ground, but it has no ominous difficulties for our procedures or our Constitution. It will give us an opportunity to deal with the two major sections separately, both with respect to timing and substance.

If the minister can convince us all that what he is doing, for example, with respect to Cape Breton, is an improvement, he will then have total support.

An Hon. Senator: In Part II.

Senator MacEachen: Absolutely!

Hon. Jacques Flynn: In a second bill!

Senator MacEachen: And why not in a second bill? Why not? Is there anything—

Senator Flynn: You cannot initiate a second bill.

Senator MacEachen: Senator Flynn is attempting to revive the procedural argument.

Senator Flynn: Well, yes—

Senator MacEachen: It has been settled, and now we are faced—

Senator Flynn: No; it has not.

Senator MacEachen: —with a vote that will have the effect, if carried, of dividing the bill. That will be the judgment of this house, and we must live with that. But let us not create difficulties that do not exist in dealing with this matter. That is all I say.

Therefore, I am saying to the minister that to say that this will effectively kill the bill is to create a crisis atmosphere that the circumstances do not justify. I would like him to cool the temperature until we see the results of the committee work. But no matter what the committee does, the Senate will have to deal with it once again.

Senator Flynn: I would like to deal for a moment with the problem of the committee and to indicate how, in my view, it is quite clear that this motion is intended to kill the bill.

Senator MacEachen has said that the committee will have no choice but to split the bill into two bills, and that it will have to report on two bills. Let us imagine, for example, that the first bill, Part I, comes back without any amendment. It is called Bill C-103 and is covered by the recommendation of the Governor in Council.

We have it here. We send it to the House of Commons, saying, "We have examined Bill C-103 and now we report it"—I guess we will have to say with amendments or without Part II. If we indicate that there is another bill coming, the House will then have to say, "Well, what was the matter? We sent a bill with two parts and only one is returned. Will another one be forthcoming?" In the view of the government, these two parts are tied. Therefore, if there is some procedural objection over there, and if it is indicated that the second bill is coming, the House will not be invited to consider only this part. In any event, this is just one problem.

Let us refer to the second bill now. What will it be called? Bill C-103(B) or Bill C-103(A)?

Senator MacEachen: Would that be difficult?

Senator Flynn: Or an "S-something" bill?

Senator MacEachen: Is that difficult?

Senator Flynn: It would be interesting if it would be entitled an "S-bill." It would not have the recommendation of the Governor in Council in any way; you would have used it on the first bill.

Senator MacEachen: Come on!

Senator Flynn: It is so obvious!

Senator MacEachen: Come on, Senator Flynn!

Senator Flynn: It is announced. You mentioned a word before referring to a motion that I made, calling it a "monstrosity." This is really a parliamentary monstrosity! It was devised by one man who knows better, and who knows where he is going. He is trying to kill the bill without taking the responsibility for doing so. The opposition has already voted unanimously for this bill on second reading.

• (1650)

Senator MacEachen: Don't create a crisis when none exists!

Senator Flynn: Am I creating a crisis?

Senator MacEachen: If you are begging for a crisis, we will accommodate you!

Senator Flynn: You have been preparing the ground work for this for a very long time! You have been exercising your ways and means, which, of course, are very typical and about which we have learned over the past four years or so. It is obvious.

Senator MacEachen: Come on!

Senator Flynn: Technically, we will be faced with an impossible solution to this matter. You have not even given the committee the occasion to redeem itself by instructing it to only consider dividing the bill. Once we have given the instruction to the committee, it has no choice. It has to bring back two bills, though we did not receive two bills from the House of Commons and we cannot return two bills to the House of Commons.

Senator MacEachen: Why not?

Senator Flynn: It is obvious. It has never been done, and it cannot be done!

Senator Frith: Because the House of Commons tells us what to do and we do not have any choice?

Senator Flynn: These are money bills, and you know very well that we cannot—

Senator Frith: So the House of Commons tells us how to do our work, does it?

Senator MacEachen: Let me ask you a question. Would you show me where an appropriation is made in Bill C-103?

Senator Frith: Where does it do that?

Senator Flynn: I would assume that, if there is a recommendation—

Senator Roblin: It involves the spending of money. It is clear.

Senator Flynn: —by the Governor in Council, it is a money bill. There is a recommendation—

Senator MacEachen: I am not asking whether there was a recommendation. I am asking you to tell me what part of the public revenue is appropriated in Bill C-103.

Senator Flynn: All the expenses of the agency are covered in the bill.

Senator MacEachen: But there is no money appropriated.

Senator Roblin: Why not?

Senator Flynn: There has to be—

Senator MacEachen: There isn't!

Senator Flynn: Now you are playing on words, and you will not get me with these little things.

[Senator Flynn.]

Senator Corbin: Little things!

Senator Flynn: Senator Corbin, Eymard G., do you want to intervene?

Senator Corbin: They are fundamental matters. They are not "little things."

Senator Flynn: The bill implies the spending of money, which requires the recommendation of the Governor in Council. It is in there, and you know very well that this agency will have to have money.

Senator MacEachen: Agreed.

Senator Roblin: Why does it need an order?

Senator MacEachen: Because it is not appropriated in the bill!

Senator Flynn: Yes, it is, by the mere fact—

Senator Frith: That was the basis of the ruling!

Senator MacEachen: No part of the public revenue is appropriated.

Senator Flynn: I think it is. Assets are involved.

Senator MacEachen: What amount? Tell me what amount!

Senator Flynn: I don't have to tell you what amount!

Senator MacEachen: Why not?

Senator Flynn: The moment that you provide for the payment of the president, for instance, his salary—

Senator MacEachen: But there is no provision for those funds!

Senator Flynn: There is, of course!

Senator MacEachen: Show me!

Senator Roblin: You will see in committee!

Senator Flynn: There is certainly authority in the bill to pay the president.

Senator Murray: The bill has a royal recommendation and you can't change that.

Senator MacEachen: Why does it need one?

Senator Frith: That is your problem!

Senator Flynn: The Governor in Council has to determine the amount to be paid to the president, and because you give the authority—

Senator MacEachen: You do not create an appropriation by a royal recommendation!

Senator Frith: You can't just stick a royal recommendation on something and make an appropriation!

Senator Flynn: —because you give the authority to the Governor in Council to pay the president, you have to give him the authority to spend money. You do not have to spell out the amount. That has never been required, but you have to give the authority to the government to spend, and that is there.

Senator MacEachen: In any event, the point does not make any difference anyway, because the bill did not originate in the Senate.

Senator Flynn: But it did. That is the point!

Senator MacEachen: Are we now to believe—

Senator Flynn: We have one bill from the House of Commons—

Senator MacEachen: —that these bills have seen the light of day in the Senate?

Senator Flynn: —and you are going to return two bills.

Senator MacEachen: That's twisting—

Senator Flynn: You know very well that when you return two bills instead of one the House of Commons will not recognize them.

Senator MacEachen: That is not the point!

Senator Flynn: And if in the opinion of the House—and the House doesn't care about your opinion in this matter—these bills are money bills, then they are dead. You know that very well.

Senator MacEachen: Your argument is pretty weak.

Hon. John B. Stewart: Honourable senators, Senator Flynn baits one to intervene. The argument has been made that this is a government bill. The implication is that that fact makes the bill immune from the powers of this body or, indeed, of the House of Commons.

Senator Roblin: That is not the argument at all!

Senator Stewart: That, of course, is not accurate. For many years government bills and private members' bills were listed together. The distinction between private members' bills and government bills originated last century simply to give the government more of the time of the House of Commons. There is no distinction in the fundamental procedure of Parliament between those two kinds of bills. But, under the present rules of the House of Commons, the fact that these are government bills actually will make it easier for the bills to become law, because the government has at its disposal almost all the time the House of Commons. If the government wants the two parts of this bill to be enacted, it can make adequate time available very easily. If, indeed, these were private members' bills and if they had been produced by a division in the Senate, the problem in the other place would be far greater, because the time for private members' bills is strictly limited. In fact, there is a special procedure for private members' bills that makes it virtually impossible—

Senator Flynn: Honourable senators, I rise on a point of order. Senator MacEachen said—and the honourable senator is taking for granted that he is right—that there is no money provision in this bill.

Senator Stewart: I am not talking about that!

Senator Flynn: I refer him to clause 11(4), which says, "The president shall be paid such remuneration as may be fixed by the Governor in Council." This is an appropriation of money and this is authority to spend.

Senator Stewart: That's not a point of order—

Senator MacEachen: It is not an appropriation at all!

Senator Flynn: It is authority to spend!

Senator Stewart: That is not a point of order relevant to what I am—

Senator MacEachen: But it is not an appropriation to spend.

Senator Stewart: That is not—

Senator Flynn: Come on! You know better!

Senator Roblin: He certainly knows better, because he is stuck with it!

Senator Stewart: Honourable senators, I do not want to disrupt the other Senate which seems to be in operation in the other part of the chamber. The point that Senator Flynn just thought of is quite irrelevant to anything I am talking about. I am now talking about this bill as a government bill, not an appropriation bill. Before I come to that, I would like to summarize my point: the fact that a bill is a government bill does not make it immune to any of the normal legislative rights of the Senate.

The second point I want to suggest is that the mere fact of a message or recommendation does not make a bill an appropriation bill. It is true that a recommendation is constitutionally required—

Senator Roblin: At least you admit that!

Senator Stewart: —in the case of an appropriation bill. That is not an admission; it is a statement of fact, though I know that Senator Roblin regards it as a revelation. A bill accompanied by a recommendation is not necessarily an appropriation bill. If it were, every government with the arrogance that comes with time would tack on a recommendation to every bill so as to make it immune from certain changes in the House of Commons and the Senate.

Senator Flynn: Oh, come on!

Senator Frith: Exactly, that is all it has to do!

Senator Stewart: This is the experience of the House of Commons at Westminster. They are very careful in this regard because they know the consequences. So what has to be done is to take a look at the facts. Does the bill in truth appropriate any part of the public revenue? Does it in fact appropriate any part of the public revenue? The mere presence of a royal recommendation does not establish that it does.

Now, where is the authority to pay the costs of these two agencies to be found? The money is provided in the Main Estimates. Is Senator Flynn suggesting that, if somehow the votes in the Main Estimates providing the supply for ACOA, et cetera, were to be deleted, this bill would be sufficient to authorize the payment of the salaries? No, he would not suggest anything as foolish as that. That is where the authorization is. I think that he, on reflection, would be inclined to

agree. In any case, the recommendation provides a foundation for both parts of Bill C-103.

Senator Murray: Do you think the Estimates would be enough?

Senator MacEachen: Well, you are working on them now.

Hon. Duff Roblin: Honourable senators, I do not feel that I am qualified to take part in this debate, which has now been conducted by such eminent authorities as Senator Stewart and others of similar capacity in the house, but he really has surprised me. As a gentleman who has long acquaintance with parliamentary procedure, tradition and development, he surprises me with this attempt to say that, because this bill is not an appropriation bill in the sense that the Estimates may be, it does not require a message.

Senator Stewart: I do not say that at all.

Senator Roblin: The whole issue, as I see it, is: Does the bill require a message? The answer to that, surely, is yes.

Senator Frith: Why?

Senator Roblin: It has a message. It could not have come to us unless it had a message.

Senator Frith: How do you know that? Why do you say that?

Senator Roblin: It had a message in the House of Commons. If it were not necessary that it should have a message, then those who are dealing with the procedure in that chamber would have something to say about it. It requires a message. You cannot get around that fact. Senator Stewart cannot get around that fact.

Senator Stewart: Will you tell me why it requires a message?

Senator Frith: Because they said it did. That is his point.

Senator Roblin: My friend can make any argument he likes about the desirability of a message.

Senator Frith: That's your argument!

Senator Roblin: The fact of the matter is that it received a message. Senator MacEachen knows it received a message. Senator MacEachen knows; Senator Stewart knows; this whole house knows that no bill that requires a message can be introduced in this chamber.

Now, it is futile to say that you do not agree with the fact that it received a message. Go and tell them about it, for all the good it will do you.

Senator Frith: That is not what he said at all.

Senator Roblin: The fact is that it required a message, it received a message, and nobody in this house can introduce a bill that requires a message under our Constitution.

Senator Frith: That is right.

Senator Roblin: That is absolutely right. The Leader of the Opposition, with all his years of experience—how many bills requiring a message has he introduced? How many of those bills had money appropriations, as he is talking about now? None, not one of them.

Senator Frith: Settle down!

Senator Roblin: He stands up here and says that, because it does not contain an appropriation of money, it does not require a message, and therefore his device of splitting the bill is in order.

Personally, I am really not very concerned about the splitting of the bill. There may be merit in it. I do not know, and I have no objection to people discussing that matter, but I think they have to recognize the consequences of what they do. These consequences are simply as described by Senator Flynn, that we will be dealing in this house with part of a bill which received a message in the other place, a part to which we cannot attach a message. We are being asked to deal with a truncated matter and send it back to the other place. What do you suppose is going to happen to it there? Everybody who thinks about it for five seconds knows perfectly well that the House of Commons is not going to respond lightly to any effort of this house to interfere with its prerogatives dealing with the introduction of legislation which requires a message from Her Excellency, the Governor General. I think that what is going to happen is as clear as can be. They are going to say, "It is not a constitutional move. You should not do it."

If my learned friends do not like the way the bill has been drafted, a far more appropriate way of dealing with it, in the ordinary course of events, is to send it to committee. If they do not like what is in it, then they can amend it. It is the easiest thing in the world to do and also within the rights of this body—indeed within the rights of this body. That is the proper course of action: send it to committee, as we have already done. When it gets there, if they do not like what has happened to it, if we cannot convince my honourable friend that it deals fairly with Cape Breton and reflects its special interest—which is something dear to all of us—then that bill can be amended. If our amendments have the validity that one would hope, then we could expect it to receive some consideration in the other parts of the Parliament of Canada. However, to follow this method—which is self-defeating, if anything ever was, in terms of getting an affirmative response from the House of Commons—seems to me to be a futile waste of time.

• (1700)

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Graham—

Shall I dispense?

Senator Doody: Yes, dispense!

Some Hon. Senators: Dispense!

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore:* Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore:* In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore:* Please call in the senators.

• (1720)

The Hon. the Speaker *pro tempore:* Let the doors to the chamber be locked.

Motion of Senator Graham carried on the following division:

YEAS

THE HONOURABLE SENATORS

Austin	Hébert
Bonnell	Hicks
Bosa	Kirby
Buckwold	LeBlanc (*Beauséjour*)
Cools	Lefebvre
Corbin	Lucier
Cottreau	MacEachen
De Bané	Marchand
Denis	Molgat
Fairbairn	Pitfield
Frith	Stewart (*Antigonish-Guysborough*)
Gigantès	Stollery
Grafstein	Thériault
Graham	Turner
Guay	van Roggen—33.
Hastings	
Haidasz	
Hays	

NAYS

THE HONOURABLE SENATORS

Atkins	Macquarrie
Barootes	Marshall
Bazin	Molson
Bielish	Murray
Cochrane	Ottenheimer
Cogger	Phillips
David	Roblin
Doody	Rossiter
Doyle	Spivak
Flynn	Tremblay
Kelly	Walker—23.
MacDonald (*Halifax*)	

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

• (1730)

The Hon. the Speaker *pro tempore:* Let the doors be opened.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION

MOTION TO AUTHORIZE FOREIGN AFFAIRS COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-130—DEBATE CONTINUED

On the Order:

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

That the Standing Senate Committee on Foreign Affairs be authorized to examine the subject-matter of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America, in advance of the said Bill coming before the Senate or any matter relating thereto.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, in dealing with the motion that was moved by Senator Murray I want to put aside my frequently stated and well known reservations on the routine use of the pre-study technique and concentrate on whether there is any advantage at this time in initiating a pre-study of the free trade bill. I understand the importance and dimensions of the Free Trade Agreement. It may be a case that would normally deserve special exception, but I would ask whether there is any particular advantage at this stage in passing the motion.

The approval of Senator Murray's motion would initiate in the Senate committee an examination of the subject matter of Bill C-130 even before the debate on second reading has begun in the House of Commons, let alone examination of the bill by a Commons committee. As we all know, the Standing Senate Committee on Foreign Affairs is already engaged in the examination of the Free Trade Agreement. The Senate committee received its mandate on November 5, 1987. That mandate provided that the committee:

> be authorized to examine and report upon elements of a Free Trade Agreement between Canada and the United States, tabled in the Senate on October 6, 1987 (Sessional Paper No. 332-589), and texts subsequently agreed to . . .

Strictly speaking, the Senate committee is now engaged—and has been for six months—in the examination of the subject matter of Bill C-130, which is the Free Trade Agreement between Canada and the United States.

I would argue that, in substance, the Free Trade Agreement and the legislation are about the same thing. The Honourable John Crosbie, Minister for International Trade, seemed to acknowledge this point in an exchange with Senator Frith on CTV's "Question Period" on May 28, 1988:

> MR. CROSBIE: We were elected to govern Canada and we now have, over the last three years, worked out this Free Trade Agreement. We are asking the Senate to start studying it. Now they have had the text in their hands since last December.
>
> SENATOR FRITH: Of the trade agreement, not the legislation.
>
> MR. CROSBIE: Of the agreement, and all the legislation does is implement the agreement.

Giving the committee a further reference at this time, in my opinion, will not achieve any additional benefit. On the contrary, it might distract the committee from pursuing its task of understanding the substance of the agreement by calling upon it prematurely to consider the bill itself.

I can support that point of view by referring to the actual work of the committee. The Standing Senate Committee on Foreign Affairs began its hearings on the Free Trade Agreement on November 17, 1987. It began the hearings with an overview. During the first four meetings the committee heard evidence from Ambassador and Deputy Chief Trade Negotiator Gordon Ritchie, the Honourable Pat Carney and Mr. Murray Smith of the Institute for Research on Public Policy. This phase provided information on the negotiations leading up to the agreement, as well as a necessary overview of the overall agreement itself. It is important to recall that those meetings were held prior to the concluding of the final text of the agreement.

In the new year, and after the final text had been agreed to by Canada and the United States, the committee proceeded to examine specific areas of the agreement, beginning with energy. During its examination of the energy sector, the committee first heard from three officials of the Department of Energy, Mines and Resources and then from an additional 30 individuals from the private sector and from the National Energy Board.

In addition to energy, hearings were held on the dispute-settlement mechanism, with evidence presented by members of the Trade Negotiator's Office and then by non-departmental authorities.

● (1740)

As members of the Senate already know, the committee spent some time on the question of federal treaty-making powers in areas of provincial jurisdiction and heard evidence from four authorities from the legal community.

The committee has not limited its hearings to Ottawa, having recently travelled to Washington for a series of informal meetings with American officials and trade authorities. Our investigation in Washington was principally on the subject of the dispute-settlement mechanism, but was not exclusively devoted to that, because other matters came to the surface in addition to dispute settlement. During that visit the members of the committee had discussions with their counterparts on a trade subcommittee of the U.S. House of Representatives, as well as with other governmental and private sector authorities.

I had intended to read the list of witnesses the committee has heard, but because of its length I ask, with leave, that we agree that the list be attached as an appendix to our *Debates*.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, could we agree not to see the clock so that we can finish this up this evening?

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, that I ignore the clock?

Hon. Senators: Agreed.

Senator MacEachen: May I have leave to attach this list as an appendix?

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

Hon. Senators: Agreed.

(*See Appendix "B", p. 3613.*)

Senator MacEachen: The list of witnesses will indicate to honourable senators how thorough the work of the committee has been and how relevant it is to the trade agreement and the upcoming legislation.

So, when the Honourable John Crosbie asks, as he did on CTV's "Question Period", that the Senate "start studying" the Free Trade Agreement, we must point out that the Senate has in fact been carefully studying the agreement for upwards of six months now. All that work is money in the bank, so to speak, to be drawn upon when we actually have the legislation.

I regret having gone into so much detail, but such background is essential to the argument that I am making. The committee is carefully following a particular work plan. That work plan is concentrating on certain areas of the trade agreement that are new; areas that are not normally covered in a typical trade agreement. The chairman of the committee has laid out this work plan, which has been approved, calling upon us to study, as it were, these new sectors of the agreement, of which energy is an outstanding example.

The work program to which we have already agreed should be completed by the committee. Agriculture and trade in services, including financial services, are on our future agenda. These sectors need to be explored. They would not escape thorough examination even if the bill or the subject matter of the bill were presently before the committee. Although I would argue that there is a difference between the subject matter of a bill and the legislative text, I understand that the practice has been that, if the subject matter is referred to a committee, the legislative provisions themselves are frequently examined by Senate committees. In any event, the work that we are now doing is as valuable as if we had passed a pre-study motion, because the pre-study would involve these very sectors.

From my point of view, the completion of our work program in a timely fashion will require that the committee continue its

hearings in the summer. I am a member of the committee; I have attended almost all of the meetings. I have concluded that, if we are to complete the work program that we have laid out for ourselves, it will be necessary for the Foreign Affairs Committee to sit throughout the summer. Otherwise, we could not do our work. That is a matter for the committee to decide, but that is my view as a member of the committee.

In his recent "Question Period" interview, the Minister responsible for International Trade, the Honourable John Crosbie, expressed concern that senators would not "consider this deal between now and next September."

If that is a real concern of the minister, I believe that it is unjustified, because it is certainly not my opinion that it would be possible to interrupt the examination of the trade agreement at the end of June and resume at the beginning of September. The work is so important that it should be continued.

Based on those few observations, I should like to refer briefly to a number of points raised by Senator Murray in moving his motion of May 31.

I quote him as follows:

> The government would like to see the Senate get a head start, as it were, on the parliamentary process by pre-studying this bill. Naturally, we are interested in that the pre-study could, and probably would, expedite the consideration of the bill, which in turn, would expedite our preparations, as a government and as a country, for its implementation.

With respect to the first point, namely, getting a head start, I believe that the Standing Senate Committee on Foreign Affairs has gotten a good head start. It is very much involved in its work, has received a head start and will continue to maintain the momentum.

The second point has to do with the expedition of the bill. Senator Murray is obviously concerned, as a member of the government, in expediting the government program. But I say to him that there are many factors that will obviously influence the expedition of the bill or the program. It is my view that we are expediting the examination of the agreement and the substance of the bill, although we do not have it before us, as much now with the reference that we have as if we had the motion passed which he has put before this house. I do not think we could do a better job than what we are doing now.

Senator Murray then went on to express the view that the committee is now in an excellent position to give a thorough study to the provisions of this bill.

I believe it will be in an excellent position to study the provisions of Bill C-130, but it will be better for us to complete the present work program first. In so doing, the excellent position will then have been obtained.

There is one other point that I must make, and that is that, before we think it is appropriate to pass this motion, before we authorize a major reversal in usual parliamentary practice, as is contemplated in this motion, the Senate as a whole should know more about results in the House of Commons. I will cite just one example. As far as I know, their Speaker has not yet ruled on the admissibility of Bill C-130 in its present form. A question of order has been raised as to the admissibility of Bill C-103 and the Speaker has reserved his ruling, and, so far as I know, he has not ruled today but will rule sometime in the future. Apart from that, which is only a single point and maybe not a governing point, we have absolutely no idea what the progress of the bill through the House of Commons will be. We do not know when it will arrive in the Senate. For example, if it arrives at the end of August or mid-August, then, of course, we will be in a position to take the bill, give it second reading and have it examined in committee. So, in my view, it is a bit premature to launch a pre-study before we know precisely what is to happen.

• (1550)

In any event, the main point of my argument is that Senator Murray's motion is unnecessary, because we are doing as much in the committee at this time as if we were dealing with the bill or the provisions of the bill itself. The substance of Bill C-130 is the Free Trade Agreement. In his speech on the motion, Senator Murray urged "that the Senate can and should take up the substance of this free trade bill—". I want to assure him that the substance of Bill C-130 is well before the committee. We are deeply involved in the process and in the substance, and I think the press has understood this, as indicated by a recent article in the *Globe and Mail*, written by Christopher Waddell, who said as follows:

> While the Liberal-dominated Senate may not accede to the pre-study request, in fact the Senate foreign affairs committee has met at least 16 times since last December to discuss the trade deal.

If I may interpolate, it is true that we have met at least 16 times. In fact, the committee has met 34 times and that involves a substantial amount of work. The final paragraph of Mr. Waddell's article reads as follows:

> The committee has heard extensive testimony from Government witnesses, the team that negotiated the deal and outside experts on many elements of the trade pact. It also organized a trip to Washington to gain more information on the agreement.

Honourable senators, all I want to say in conclusion is that the Senate Foreign Affairs Committee is at present doing a job which needs to be done, and it is doing it in a thorough manner. I do not think that the passing of the motion at the present time would help us in any way. It might be a harmful distraction, because it may take us away from the necessary work plan that is before us at the present time. I am quite prepared to review the situation when the committee is further advanced in its work and when we know a little more about what is happening in the House of Commons with regard to Bill C-130. In the meantime, I would like to adjourn the debate.

Senator Doody: Honourable senators, I know that several people on this side would like to speak to the motion. Would it be possible to adjourn the debate in my name?

Senator MacEachen: Sure.

Hon. George van Roggen: Honourable senators, before we adjourn the debate may I, as chairman of the committee, make one or two quick observations. I apologize, because I have been keeping witnesses in the committee room waiting since we left a few minutes ago to come to the chamber for the vote. Incidentally, I would inform other members of the committee who are here that I would appreciate it if they would come back to the committee with me in a minute or two.

Hon. Orville H. Phillips: Honourable senators, I rise on a point of order. If the debate is being adjourned, I see no reason why we should extend leave beyond six o'clock for Senator van Roggen to speak.

Senator van Roggen: I want to make a supplementary comment relative to the committee which will take me about 30 seconds, if it is of interest to honourable senators.

The Hon. the Speaker *pro tempore:* Senator Doody, do you wish to withdraw your motion for the adjournment of the debate?

Senator Doody: Your Honour, I could hardly resist the invitation to allow a 30-second debate. It would be less than gentlemanly of me to do so.

Senator van Roggen: I want to say relative to this specific legislation, as opposed to the agreement which we are examining, that I have already instructed the staff of the committee to start comparing it, clause for clause, with the U.S. legislation, because they will have to be parallel. However, we do not even have the U.S. legislation as yet, only some rough drafts that might well be changed.

Second, should the Senate adjourn during July so that we can have some holidays around here, I have made arrangements and have spoken to several members of the committee about something which I will be proposing in a few minutes in the committee, and that is that we sit during July, not for our usual two or three hours on Tuesday but for three or four days at a time throughout July, so as to cover in one week the ground we might otherwise cover in a month or two in the hope of completing our work on the agreement, as opposed to the legislation.

Senator Phillips: Thirty seconds!

Senator van Roggen: I thank honourable senators for allowing me to add those few remarks to Senator MacEachen's.

Senator Phillips: Anybody else?

On motion of Senator Doody, debate adjourned.

EMERGENCIES BILL

NOTICE OF MEETING OF STEERING COMMITTEE OF COMMITTEE OF THE WHOLE ON BILL C-77

Hon. Gildas L. Molgat: Honourable senators, if I may, I wish to announce that a meeting has been called for the steering committee of the Committee of the Whole on Bill C-77 when the Senate rises. It will be a very short meeting, and it will be held in room 263.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that all remaining orders, inquiries and motions stand.

The Hon. the Speaker *pro tempore:* Is it agreed honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 3582*)

THE ESTIMATES, 1988-89

REPORT OF STANDING SENATE COMMITTEE ON NATIONAL FINANCE

TUESDAY, June 7, 1988

The Standing Senate Committee on National Finance has the honour to present its

TWENTY-THIRD REPORT

Your Committee, to which the expenditures proposed by the Estimates for the fiscal year ending 31st March, 1989 were referred, examined the said Estimates and presents, in obedience to the Order of Reference of 1 March 1988, its interim report as follows:

When it reviewed the Estimates 1988-89, the Committee followed its standard procedure of opening the hearings with the President of the Treasury Board and, following this, with a series of meetings covering a particular theme. This year, the Committee chose to examine the spending estimates of the three research granting councils, particularly in the context of the matching grants program announced by the federal government in 1986. The Committee's report on the subject of the matching grants program will be tabled in the coming weeks. The following is the interim report on the estimates:

Mr. Mazankowski, who was President of the Treasury Board at the time the Committee began its hearings, provided the Committee with an overview of the government's spending plans for 1988-89. He indicated that the government expects to make budgetary expenditures totalling $132.3 billion. Of this, the government has identified $119.4 billion in the Estimates representing a 7.7% increase over comparable estimates from the previous fiscal year. The remaining $12.9 billion is reserved for supplementary expenditures and other provisions. These are identified in Table One. (See Appendix A)

Of the $119.4 billion, $78.5 billion, or 65.7% is allocated to statutory expenditures. Public debt charges account for $32 billion, or 40% of these statutory expenditures. Non-statutory expenditures, representing the amount that Parliament is asked to authorize, account for $41 billion, or 34.3% of the total.

The value of statutory items this year represents approximately the same proportion of the total budgetary estimates as it has in the last few years. This caused some Committee members to reflect upon the difficulty of reducing the annual deficit when so much of the annual estimates are taken up with statutory expenditures. Mr. Mazankowski responded that many of the statutory items are in transfer payments to both individuals and provincial governments particularly for such program areas as social assistance, income security, and the fiscal transfers to the provinces. He did indicate that while there had been extensive review of these statutory expenditures, it was very difficult to consider changes to them because they have "become a way of life and [are] part of the Canadian tradition of sharing". The Committee speculated that within the current revenue and expenditure framework, it may be difficult for the government to reduce the annual deficit from its current level of $28.9 billion to the projected $19.5 billion by 1992-93.

The Committee also wishes to remind the government of its past observations about the potential incompatibility of the legislative requirement of annual appropriations with programs with uncertain timing of expenditures. The Committee commented on this problem in its Thirteenth Report when it reviewed the overexpenditure by the Department of Regional and Industrial Expansion in Supplementary Estimates (B), 1987-88. In the same report, it also commented that the current "Payables at Year End" policy of the government is well suited to deal with this problem

when departments overspend at the year end and the next fiscal year appropriations are required to complete the previous year's commitment.

However, in its report on Comprehensive Auditing (Eighteenth Report), the Committee stated;

> "When governments establish programs with objectives that foster multi-year financial commitments, but with uncertain timing, those objectives may not be consistent with a system of annual appropriations; in short achieving effectiveness may not be consistent with legislative compliance."

The Committee wishes to remind the government once again of this important fact and to indicate that in its future business, the Committee will watch for and report on instances where legislative compliance and annual appropriations may not lead to effectiveness.

The Committee also wishes to voice its pleasure that the government has finally accepted its concern about the inappropriate way vote transfers are displayed in supplementary estimates. The Committee has been informed that in the first regular supplementary estimates for 1988-89, vote transfers through one-dollar votes will show considerably more information than in the past, so that parliamentarians will have a complete picture about the source of money for vote transfers and all the changes to the receiving vote.

Respectfully submitted,

FERNAND-E. LEBLANC

Chairman

APPENDIX A

TABLE I
Expenditure Framework

($ millions)	1986-87	1978-88*	1988-89
Budgetary Main Estimates			
Statutory expenditures	69,538	72,314	78,488
Annual appropriations	37,470	37,827	40,878
Total Budgetary Main Estimates	107,008	110,141	119,366
Reserves for Supplementary Estimates			
Allocated to envelopes	1,100	1,466	1,728
Provisions for adjustments to Statutory and other programs**	1,900	2,380	2,536
Projected Total Budgetary Estimates	110,008	113,987	123,630
Other Elements of the Expenditure Plan			
Consolidation of Accounts	8,039	9,543	9,580
Provision for valuation	130	180	200
Allowance for lapse	-1,437	-1,160	-1,160
Total Budgetary Expenditure	**116,740**	**122,550**	**132,250**

* These Estimates do not include the Special Canadian Grains Program approved in Supplementary Estimates (A), 1987-88. This year's expenditure framework includes the Special Canadian Grains Program as part of the Main Estimates for 1987-88.

** Includes Treasury Board Vote 5: Government Contingencies.

Source: Estimates 1986-87, Part I, Estimates 1987-88, Part I, Estimates, 1988-89, Part I.

APPENDIX "B"

(*See p. 3608*)

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION

LIST OF WITNESSES HEARD BY STANDING SENATE COMMITTEE ON FOREIGN AFFAIRS

1. ENERGY

Department of Energy, Mines and Resources:

— David Outon, Free Trade Agreement Coordinator
— David Burpee, Director, Energy Electricity Policy
— Mark Sills, Bilateral Energy Relations Section

Non-departmental:

— Robert Pierce, President of Nova Corporation
— Bill Gatenby, Arne Nielsen, Hans Maciej and Ian Smyth of the Canadian Petroleum Association
— Paul Pinnington, Charles Safrance and Jack Cooper of the Ontario Natural Gas Association
— Wallace Read, President, Canadian Electrical Association
— Richard Marshall, President of the Coal Association of Canada
— G.F. Bentley and G.J. Finn from Polysar Limited
— J.M. Bélanger, J.K. Lambie, G.W. Telmer, A.E. Le Neveu, from the Canadian Chemical Producers' Association
— Nicholas Ediger and Ted Munden of Eldorado Nuclear Ltd.
— Roland Priddle, Chairman of the National Energy Board
— Reg Basken, C.S. Sullivan, Alfred Theobald and Murray Randall from the Energy and Chemical Workers Union
— Marshall Crowe, from M.A. Crowe Consultants Inc.
— Professor G. Bruce Doern, School of Public Administration, Carleton University
— Dr. Gerry Angevine, of the Canadian Energy Research Institute, Calgary
— Professor Bruce Wilkinson, Department of Economics, University of Alberta
— Wilf Gobert, an energy analyst
— Nick Schultz, of the Ottawa Law Firm, Lang, Michener, Lash and Johnston
— Dr. Eric Sievwright, of Eric Sievwright and Associates Ltd.

2. DISPUTE SETTLEMENT MECHANISM

— Gordon Ritchie, Ambassador and Deputy Chief Negotiator, Trade Negotiations Office
— Jack Coyne, Osler, Hockin and Harcourt, Legal Advisor to the Trade Negotiations Office
— Konrad von Finckenstein, Senior General Counsel Trade Negotiations Office
— Rodney de C. Grey, Trade Policy Consultant
— Professor George Alexandrowicz, Faculty of Law, Queens University
— Robert Herzstein, Washington D.C. Law Firm of Arnold and Porter.

3. PROVINCIAL JURISDICTION

— Professor Andrew Petter, Faculty of Law, University of Victoria
— Scott Fairley, Adjunct Professor of Law, University of Ottawa
— Gerald Morris, Professor Emeritus, University of Toronto Law School
— Dr. Ivan Bernier, Professor of International Law, Laval University

4. WASHINGTON

From the Subcommittee on Trade of the Committee on Ways and Means of the U.S. House of Representatives

Rep. Sam M. Gibbons (Florida)
Rep. Don J. Pease (Ohio)
Rep. Dick Schulze (Pennsylvania)
Rep. Philip M. Crane (Illinois)
Rep. Bill Frenzel (Minnesota)
Rep. Frank J. Guarini (New Jersey)
Rep. Robert T. Matsui (California)
Mr. George Weise, Professional Staff of the Subcommittee on Trade
Mr. Gary Horlick, Attorney
Former Deputy Assistant Secretary for
International Trade in the U.S. Department of Commerce
Mr. Peter Morici
Vice President and Research Director
National Planning Association
Mr. Julius Katz,
Chairman of the Government Research Corporation
former U.S. Assistant Secretary of State for Economic and Business Affairs
Mr. Fred Bergsten
Director of the Institute for International Economics
former Assistant Secretary of the Treasury for International Affairs
His Excellency Allan E. Gotlieb
Canadian Ambassador to the U.S.A.
Mr. Leonard H. Legault
Minister (Economics) and
Deputy Head of Mission
Mr. William A. Dymond
Minister-Counsellor (Commercial)

Mr. Jonathan T. Fried
First Secretary
Mr. Stephen J. Powell
Deputy Chief Counsel for International Trade
U.S. Department of Commerce
Mr. Chip Rowe, U.S
Trade Representative Office

Mr. Robert Muth
Vice President
Government and Public Affairs
ASARCO, Incorporated
New York, New York
Mr. Stewart A. Baker, Partner,
Steptoe & Johnson, Washington, D.C.

THE SENATE

Wednesday, June 8, 1988

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

Prayers.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

8 June 1988

Sir,

I have the honour to inform you that the Honourable Bertha Wilson, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 8th day of June 1988, at 4:45 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

ANTHONY P. SMYTH
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

[*English*]

THE HONOURABLE HERBERT O. SPARROW

FELICITATIONS ON CONFERRING OF HONORARY DOCTORATE OF SCIENCE

Hon. D.G. Steuart: Honourable senators, I rise on a question of privilege. I wish to draw the attention of the Senate to a most happy occasion that took place on Friday last, when one of our members from Saskatchewan, Senator Sparrow, was paid the very high honour of receiving an honorary Doctorate of Science from McGill University.

This honour was conferred on Senator Sparrow as a result of the study conducted by the Standing Senate Committee on Agriculture under his chairmanship. The committee concluded that study with its report entitled "Soil at Risk—Canada's Eroding Future", which it published in 1984. It was also in recognition of the tremendous amount of work Senator Sparrow has done since that time in promoting not only the results of the study but in being extremely active all across Canada, in a great many parts of the United States and even as far away as Australia, in promoting the principle behind this study, that is, the necessity of taking action, and taking action immediately, not only in Canada but all over the world to stop this most serious erosion of soil, which puts at risk the worldwide production of foodstuffs.

Senator Sparrow has spoken perhaps 250 or 300 times in almost every part of Canada and in many places in the United States. He was eventually sent by the United Nations to address a conference on soil degradation in Australia.

He has been awarded many honours in this country and in the U.S. He was also granted a medal by the United Nations for the tremendous amount of work he did as a result of this important study. The honours culminated on Friday last when Senator Sparrow was awarded an honorary Doctorate of Science from McGill University.

The study which culminated in the report issued in 1984 was extremely timely, not only in terms of the situation in Canada but in terms of the global situation, because it has captured the attention of governments and people involved in the production of food and in agriculture around the world.

Senator Sparrow has been tireless in his efforts to promote this report. He has spoken to governments, universities, business groups, agricultural groups and, recently, has become the founding president of an organization called "Soil Conservation Canada", which is supported by governments and agricultural groups in Canada.

I believe that the honour paid to Senator Sparrow reflects on the work done by the Standing Senate Committee on Agriculture and by the Senate. The great work done by the Senate of Canada and its committees is frequently overlooked. Among the great studies that have been done, for example, are the study on poverty and the study on the media. Many studies have been carried out by the Senate over the years and have been of tremendous value to Canadians, as well as to those beyond the borders of Canada.

Therefore, at this time I congratulate the Standing Senate Committee on Agriculture and Forestry and I congratulate Senator Sparrow. I know that we are all very proud of the work that he has done. It has brought honour to Senator Sparrow. It has brought honour to the Senate. I know that he will carry on this tremendous job he has undertaken on our behalf and on behalf of the agriculture industry in Canada.

I might say that at no time in the history of Canada, except perhaps in the "dirty thirties", were the results of such a study more important to western Canada. The unfortunate soil use and farming practices that are still being carried out are resulting in a tremendous amount of erosion of our topsoil. The study was timely in 1984; it is even more timely now in 1988.

Again, congratulations, Senator Sparrow. Keep up the good work.

Some Hon. Senators: Hear, hear!

Hon. Orville H. Phillips: Honourable senators, on behalf of this side of the chamber, I join in extending congratulations to Senator Sparrow. We recall the excellent planning he did for the committee work. Indeed, we recall the canvassing he did prior to establishing the committee, when perhaps not everyone was convinced of the necessity of carrying out the study on soil erosion. We are pleased that the report has been so widely accepted and acknowledged, as many of the honours cited by Senator Steuart have indicated, but we are especially anxious to join in the statement that the honour accorded by McGill University is partly due to the fact that Senator Sparrow has devoted so much time to explaining the report, getting it publicity and getting people to understand it since it was presented to the chamber.

I think this is most important, because in the past many excellent reports have been published and then more or less forgotten. Senator Sparrow has spoken repeatedly on the committee's report and, as a result of that report and his work afterwards, is well deserving of the honour.

We all join in extending congratulations to him.

Hon. Senators: Hear, hear!

Hon. M. Lorne Bonnell: Honourable senators, I join my colleagues in congratulating Senator Sparrow. I did not know until now that he had received this honorary degree.

I agree with all that has been said, but there is one thing that has not been said that I would like to say, and that is that not only did Senator Sparrow have this study done, not only was he the instigator of it and the chairman who kept us all working on the committee and who made sure that we got the word out after the committee report was tabled, but Senator Sparrow kept talking and pointing out the importance of the report.

Until today every province in Canada is using this as a guide and in their schools. The Departments of Agriculture, Forestry and Soil are now doing things to preserve the land and the topsoil. They are now changing their habits, not only in agriculture but in wildlife, in the streams and other things, and they have used this as a base. The whole history of Canada's soil and agriculture and forestry and wildlife has changed since 1984, since "Soil at Risk" was first put out as a report.

Even the Government of Canada is using this report as a basis for progress. That is why the Americans are looking to Canada and are asking Senator Sparrow to go down there to speak to their agrologists; that is why the United Nations has asked to hear from Senator Sparrow; that is why Australia asked to hear from Senator Sparrow. They are looking to Canada for leadership, and Senator Sparrow is the leader in this regard in Canada.

Every province in Canada since 1984 has made tremendous strides in the area of soil preservation, in changing their agricultural policies, in changing the way they plough their lands, in changing the way they treat their hedgerows, in changing the way they develop their streams and in changing the way they construct dams and so forth. They are doing that because of Senator Sparrow's report.

There are many more honours to come to Senator Sparrow, and I congratulate him on this one.

Hon. Dan Hays: Honourable senators, I should like to join with my colleagues in congratulating Senator Sparrow on the occasion of his being honoured with an Honorary Doctorate from McGill University. Senator Sparrow's work on the "Soil at Risk" report, when he was chairman of the Standing Senate Committee on Agriculture, has indeed brought great credit to that committee, to the Senate of Canada and to the Parliament of Canada. It demonstrated to everyone how someone can make an important public contribution outside of the traditional minister-parliamentary secretary roles.

I should like to join with all honourable senators in wishing Senator Sparrow continued success with his work on the soil erosion problems that we are experiencing in Canada and in the world.

While I was not in the Senate at the time the report was prepared, I have heard a great deal about it and have referred to it on many occasions. It is an excellent report and, again, an inspiration to us all as to what can be done by Senate committees and, indeed, by any parliamentary committee.

I know that this is one of many honours Senator Sparrow has received, and I hope he will receive many more because he is most deserving of them.

[*Translation*]

PRIVATE BILL

MONTREAL TRUST COMPANY OF CANADA—FIRST READING

Hon. Michel Cogger presented Bill S-17, an Act to authorize the Montreal Trust Company of Canada to be continued as a corporation under the laws of the Province of Quebec.

Bill read first time.

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

On motion of Senator Cogger, bill placed on the Orders of the Day for second reading on Tuesday, June 14, 1988.

[*English*]

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Finlay MacDonald: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at four o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon. Orville H. Phillips: Could we have an explanation of why leave is being asked?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): This had better be good!

Senator MacDonald: Honourable senators, Senator Phillips, my friend in good times and bad, has requested an explanation, which I am happy to provide.

When this particular bill, to which I will refer in a moment, was referred to us, we scheduled a meeting for this afternoon to take place after the Senate had risen. Since then two factors have intruded that cause me to move this motion. One is that we are to have Royal Assent this afternoon; the other is that there is to be a meeting of the National Finance Committee at six o'clock. So there is a possible conflict there for those of us who would like to be able to attend both meetings. However, having looked at the bill which the Committee on Banking, Trade and Commerce will consider this afternoon I find that it is an amendment to the excise tax and should involve only a short period of time. So not only should we be able to attend both committees but we may have the opportunity to pay our respects to the Queen as well.

Hon. Senators: Hear, hear!

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

Hon. Senators: Agreed.

Motion agreed to.

EMERGENCIES BILL

EXAMINATION IN COMMITTEE OF THE WHOLE—MOTION RE APPEARANCE AND SEATING OF WITNESSES ADOPTED

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have two motions dealing with the proceedings of the Committee of the Whole on Bill C-77. I am going to ask leave to move both of them. However, if honourable senators prefer, I can change this to a notice of motion.

With leave of the Senate and notwithstanding rule 45(1)(*i*), I move:

> That witnesses be called to appear before the Committee of the Whole on the Bill C-77, An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof; and
>
> That the witnesses be permitted to sit at a special table provided for that purpose.

These provisions are the same as those made for the Committee of the Whole on the Meech Lake Accord.

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

Hon. Senators: Agreed.

Motion agreed to.

EXAMINATION IN COMMITTEE OF THE WHOLE—MOTION TO AUTHORIZE STILL PHOTOGRAPHY AND TELEVISING OF PROCEEDINGS ADOPTED

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*i*), I further move:

> That a still photography pool be permitted to record the proceedings of the Committee of the Whole on the Bill C-77, An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof;
>
> That pool television cameras also be permitted in the Senate Chamber for the purpose of recording the proceedings of the said Committee; and
>
> That the proceedings be televised pursuant to the principles and practices governing the broadcasting of the proceedings of the House of Commons, where applicable.

Honourable senators, with respect to the question of leave, this motion is in the same form as used previously and is intended to provide access, not automatic televising.

Hon. Orville H. Phillips: Honourable senators, may I, before granting leave, ask the Honourable Senator Frith if he is expecting the former Prime Minister Trudeau again, because I notice the drapings are the same as we used at the time of his visit during Meech Lake? Second, I should like to inquire if he expects the same enthusiastic demand by the media for coverage of the Committee of the Whole today as was the case on the Meech Lake Accord.

Senator Frith: Honourable senators, on question No. 1, no; on question No. 2, no.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

CANADA POST CORPORATION

TRANSFER OF POST OFFICES TO PRIVATE ENTERPRISE—NUMBER AND LOCATION IN ATLANTIC CANADA

Hon. M. Lorne Bonnell: Honourable senators, could the Leader of the Government in the Senate tell us how many of the 102 post offices in Canada that are to be converted to private enterprise are in Atlantic Canada, in Prince Edward Island in particular, and could he name those post offices?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with great respect, I think that is precisely the type of

question—seeking, as it does, statistical information—that should be put on the order paper for a written reply.

Senator Bonnell: Perhaps the honourable senator could get the information for me tomorrow.

Senator Murray: Perhaps the honourable senator could put the question on the order paper and a written reply will be brought in.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have three delayed answers to questions.

ENERGY

HEAVY OILS—CONSTRUCTION OF UPGRADER AT LLOYDMINSTER, SASKATCHEWAN—GOVERNMENT FUNDING

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the first delayed answer I have is in response to questions raised on May 10, 1988, by Senator Olson and Senator van Roggen, regarding Energy—Heavy Oils—Construction of Upgrader at Lloydminster, Saskatchewan—Government Funding.

(*The answer follows:*)

On April 29, the Honourable Marcel Masse announced that Husky Oil Limited and the Governments of Canada, Alberta, and Saskatchewan had reached an agreement on a Statement of Principles relating to the $1.3 billion bi-provincial upgrader project near Lloydminster.

The Statement will allow Husky Oil to seek new private equity participation in the financing of the upgrader project.

Private equity contributions would finance half of the project costs. Husky had sought, and received, a financial package from the three governments that would enable the company to attract new private equity for the upgrader project. Government participation would involve low-interest loans to cover the other half of total project costs.

Husky is currently in the process of negotiating with other private sector participants. Government officials are not at liberty to release the agreement pending finalization of these negotiations.

ECONOMIC SUMMIT, 1988

RE-ENERGIZING OF DEBT STRATEGY—POSSIBLE CANADIAN PROPOSAL—INTERPRETATION OF DELAYED ANSWER—REQUEST FOR MORE SPECIFIC ANSWER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the second delayed answer I have is in response to questions raised on May 11, 1988, by the Honourable Allan J. MacEachen, and on May 18, 1988, by the Honourable George van Roggen, regarding the Economic Summit, 1988—Re-energizing of Debt Strategy—Possible Canadian Proposal—Interpretation of Delayed Answer—Request for More Specific Answer.

(*The answer follows:*)

The honourable senators' remarks have been drawn to the attention of the responsible official in the Department of External Affairs, who has expressed sincere regret that his responses to earlier questions have caused offence. The reference to a "magic wand" was caused by what he understood to be a reference to calls by some bankers for the establishment of an international debt facility funded by governments to buy up at a discount commercial bank loans to indebted developing countries. Clearly, this interpretation was unwarranted by the actual text of the honourable senator's question, and the unfortunate reference would have been misplaced in any case.

The Canadian government is indeed hoping to achieve further progress in easing the debt burden of the poorest, indebted sub-Saharan African countries. The honourable senators will undoubtedly have noted recent press reports concerning a possible compromise on the issue of concessional interest rates on officially supplied and guaranteed credits rescheduled by the Paris Club. This compromise was devised by Canadian officials in the course of discussions in the Paris Club on the treatment of the debts of the poorest countries. Hopefully the compromise will be finalized at the Toronto Summit, if not before. Such a step would be a significant addition to the measures already implemented for these countries at the IMF, the Paris Club, and through the World Bank.

As to the debt of Middle-Income countries, the government will seek to improve the implementation of the case by case approach, as is set out in the speech of the Honourable Minister of Finance to the Interim Committee of the IMF on April 14 (copy attached).

Interim Committee Meeting
April 14, 1988
Intervention by the Honourable Michael H. Wilson
Minister of Finance for Canada

(p.m. session)

1. Debt Situation and Strategy

This afternoon's discussion is a particularly timely one that allows us an opportunity to reflect on progress during the past year and to look ahead to the challenges that must still be met. I believe the Fund and the other players in the world's debt problems—in both the poorest and the middle-income countries—can do more.

As we reflect on the events of the past year, it is clear that substantial progress has been made in increasing the amounts of concessional financing available to the poorest countries.

The IDA VIII replenishment has come into effect;

Donor governments have resoundingly supported the World Bank's special program of assistance for Sub-Saharan Africa; and,

The IMF has established a new source of concessional lending—the Enhanced Structural Adjustment Facility.

These efforts, however, are not sufficient to resolve the debt problems confronting the poorest countries. Some way must be found to ensure that these countries have a reasonable prospect of meeting their debt service requirements. On this point, there is broad agreement among donor governments. Canada remains of the view that rescheduling commercial export credits at concessional rates through the Paris Club represents the most viable channel to provide such assistance. However, the Paris Club has yet to reach consensus on this issue. The challenge we face is to find ways soon by which creditors can effectively contribute the much needed assistance.

The debt situation of the middle-income countries remains worrisome, particularly in light of the continued global expansion. Progress is lacking in reducing the debt burden of many problem debtors. In many cases, economic adjustment and growth in real income continues to be discouraging.

We recognize that commercial banks have built up their capital bases and increased loan loss provisions. These actions have contributed to somewhat diminished concerns about systemic risk. However, they have also tended to lessen the cohesion which earlier characterized the commercial banks' approach to the debt problem.

It is increasingly evident that fatigue with the debt problem is growing among both debtor countries and commercial banks. Debtor countries understandably find it difficult to make the political decisions to enter into and sustain adjustment programs with the international financial institutions. Commercial banks, for their part, are faced with the need to raise capital in financial markets which are skeptical about loans to many LDCs. Understandably, therefore, banks are more reluctant to join in new money packages. I believe we have entered a new phase in the debt strategy in which debtors are now attempting to capture a share of the relatively large secondary market discounts. But substantial new money inflows will still be required by most to support their adjustment efforts.

Renewed efforts must be made on all fronts to re-energize the debt strategy. The international financial institutions have a pivotal role in facilitating macroeconomic adjustment and long-term development. They must extend and better coordinate their activities.

Debtor countries have a central responsibility to free up their economies in order to enhance their economic performance, attract equity investment and reverse capital flight. The International Finance Corporation and the newly established Multilateral Investment Guarantee Agency are in place to support this process.

Efforts by both international financial institutions and commercial banks must also continue to broaden the menu of options. International financial institutions can also play a role in pursuing new and innovative techniques on a case-by-case basis designed to increase financial flows to debtor countries.

And major creditor governments must remove inappropriate regulatory obstacles, and in this way, reinforce the process.

The World Bank has a key role to play both in its own right and through increased cooperation with the Fund. The contribution of the Bank and the Fund can be greater than their individual efforts if their programs build on each other's strengths. During the past year, the World Bank, of necessity, has spent a great deal of time looking inward. It is now time to look outward again. I will elaborate on the importance of enhancing the debt management role of the Bank during tomorrow's session.

The Fund, for its part, continues to have an important role in the debt strategy: to design appropriate adjustment strategies, to monitor policy implementation, and to provide financing itself. I noted this morning the importance of structural policy reform. This is so for developed and developing countries alike. I encourage the Fund to use their influence in this element for economic growth.

There are two ways in which the Fund can give confidence to creditors and debtors that the debt problem can be managed. First, Fund conditionality must give credible assurance that policy problems are being firmly addressed. Second, the Fund's own lending, together with the World Bank, must be adequate to provide an incentive for borrowers to adhere to adjustment programs.

Before I conclude, I would like to draw to your attention a statement from Prime Minister Seaga, regarding the special problems of small middle-income debtors. I would like this statement to become part of the record of our deliberations.

Let me conclude by stressing that the Fund's primary role must be to encourage and support sound monetary, fiscal and structural policies and responsible external policies. There are no alternatives to credible and rigorous adjustment. But Fund lending must be flexible enough to ensure that good programs remain intact. The Fund can help improve the debt situation most by inspiring confidence that its programs will work.

2. Role of the Fund in Adjustment and Financing

With regard to unexpected external events, the development of an External Contingency Mechanism is a welcome addition to the Fund's ability to respond to unforeseen developments which throw programs off-track. Any such contingency mechanism must maintain the conditionality needed to ensure that the underlying adjustment priorities affecting the balance of payments

are being addressed. I endorse the Fund's proposals for this facility.

The Extended Fund Facility has been much discussed recently. This facility deserves a more important role in the future, and recent modifications should make it more attractive. However, if the Facility is to be a major tool of medium-term financial support, the Fund should use it to ensure that a solid record of adjustment is achieved.

I have regularly expressed my support for stronger Fund/Bank cooperation. I see an excellent opportunity for such cooperation in the Extended Fund Facility. Both institutions need to encourage medium-term adjustment. The Fund and Bank should examine the possibility of forging stronger cooperative links between EFF lending and World Bank structural adjustment lending. One way this could be achieved is through an expanded role for Policy Framework Papers.

* IDA – International Development Association
LDC – Less Developed Countries

HEALTH AND WELFARE

ACQUIRED IMMUNE DEFICIENCY SYNDROME—EDUCATION, RESEARCH AND TREATMENT—GOVERNMENT ASSISTANCE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, the third delayed answer I have is in response to a question raised on May 18 last, by the Honourable Stanley Haidasz, regarding Health and Welfare—Acquired Immune Deficiency Syndrome—Education, Research and Treatment—Government Assistance.

(*The answer follows:*)

The federal government has committed $4 million to education on AIDS in direct funding, and additional funds to community-based AIDS organizations to provide education, counselling and other services at the community level. In addition, the government has committed nearly $2 million to date to support essential research on the knowledge, behaviour and attitudes of Canadians related to the AIDS issue for the development and effective delivery of education programs and to collaborative education projects and programs with others.

Approximately one-quarter of the non-laboratory personnel resources of the Federal Centre for AIDS are devoted to the development of AIDS education programs and extensive advisory support to provinces, communities, non-government organizations and the private sector. It should also be noted that virtually every conference held in Canada on any aspect of the AIDS problem is supported in part or in whole by the federal government. Such gatherings play a vital role in AIDS education and understanding of the problem.

At the present time, there are 781 reported active cases of AIDS in Canada. AZT is the only drug shown to have been of benefit in the treatment of AIDS and is the only treatment generally available to AIDS patients throughout the world. A number of drugs with antiviral activity or which may modify the immune system are at various stages of clinical trial in the United States and elsewhere.

The Federal Centre for AIDS is continually negotiating with the manufacturers of such drugs and with Canadian clinical investigators to gain access to these drugs and organize appropriate clinical trials in Canada. Trials on a number of potentially useful new drugs are either being started or are likely to commence within the next few months.

Applications for regulatory approval to carry out clinical studies are reviewed immediately on receipt and a satisfactory study can commence sixty days following such receipt. Funds from the National Health Research and Devlopment Program of the Department of Health and Welfare are available to prepare and conduct studies and to assist and encourage manufacturers who would otherwise not be agreeable to conducting such studies in Canada.

No suitable application for funding has yet been rejected.

Further initiatives to stimulate more foreign pharmaceutical manufacturers to conduct clinical research in Canada as well as to encourage new drug development within Canada are imminent.

Orphan legislation of the type adopted by the United States whereby exclusive marketing rights can be awarded to a single company following successful trials is unlikely to provide greater access to experimental drugs in Canada; there is some evidence that it may have the opposite effect. However, a number of legislative options related to this situation are currently under consideration.

TOBACCO PRODUCTS CONTROL BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Rossiter, for the second reading of the Bill C-51, An Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products.—(*Honourable Senator Flynn, P.C.*).

Hon. Jacques Flynn: Honourable senators, I ask that this order stand, unless someone else wishes to speak to it. I intend to speak on Tuesday next, but I have no objection to anyone else's speaking to it today or tomorrow.

Order stands.

NON-SMOKERS' HEALTH BILL

POINT OF ORDER—BILL S-4 WITHDRAWN

On the Order:

Resuming the debate on the point of order on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator LeBlanc (*Beauséjour*), for the second reading of the Bill C-204, An Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have asked for advice on this point of order, raised, I think, by Senator Phillips. It seems that there is an argument to support Senator Phillips and that there is also an argument to support the proposition that the two bills can coexist here. But I ask honourable senators to approach this matter from the perspective of what we hope to achieve rather than to seek a ruling on this point, thereby initiating a long debate and creating perhaps an undesirable precedent. I say "perhaps" undesirable, not necessarily undesirable. I think our objective is to deal with Bill C-204 and Bill C-51. I know there is a great deal of support in the chamber for the adoption of both bills.

• (1420)

Hon. Jacques Flynn: For both Bill C-204 and Bill C-51?

Senator Frith: There is support for Bill C-204 and Bill C-51, but not for the "S" bill, if it is covered by the others. Therefore, if Senator Haidasz is prepared to take the necessary procedural steps to withdraw the "S" bill, we can then proceed with second reading of Bill C-204.

As I understand it, if we pass Bill C-51 and Bill C-204, we will have achieved everything that Senator Haidasz wants to achieve. If it is suitable, I suggest that we not ask for a ruling on the point of order, but, either today or tomorrow, make sure of the procedural technique for accomplishing our purpose. If honourable senators agree, we can then allow Senator Haidasz to speak on Bill C-204 today, pending that procedure tomorrow.

Senator Flynn: But he is the one who has to make the decision on Bill S-4.

Senator Frith: Precisely. If Senator Haidasz wants to speak on Bill C-204, he will have to preface his remarks by saying that he agrees with doing whatever is necessary to get Bill S-4 out of the way.

Senator Flynn: Perhaps we should ask Senator Haidasz to withdraw Bill S-4.

Senator Frith: If that is satisfactory, that is all right with us.

Senator Flynn: That is the only way he can do it.

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

Senator Flynn: It depends on what Senator Haidasz has to say.

The Hon. the Speaker: Senator Frith has made a suggestion. Is it agreed, honourable senators, that we should follow his suggestion?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I believe it is agreeable, but it would be nice if Senator Haidasz told us what he thinks about this.

Senator Frith: The Speaker is asking whether, if Senator Haidasz is prepared to withdraw Bill S-4, we are prepared to grant him leave to withdraw it. We would have to hear whether or not he is prepared to do so.

Hon. Henry D. Hicks: Let him tell us.

Hon. Stanley Haidasz: Honourable senators, on the point of order raised by Senator Phillips and spoken to by Senator Flynn and Senator Frith, in view of the fact that Bill C-204 accomplishes more than Bill S-4, which has been in committee for approximately one year—

Senator Doody: Happy birthday!

Senator Haidasz: —and in view of the fact that Bill C-204 is complementary to Bill C-51, which we also want to see passed, I therefore ask leave to have Bill S-4 withdrawn from the Orders of the Day and from the committee's agenda.

Senator Frith: Because Bill S-4 is in committee, if Senator Haidasz agrees, he could moved the following motion:

With leave of the Senate and notwithstanding rule 47(2),

That the Order of the Senate of Wednesday, 11th March, 1987, for the second reading and the reference to the Standing Senate Committee on Social Affairs, Science and Technology of the Bill S-4, An Act to amend the Hazardous Products Act (tobacco and tobacco products), be rescinded; and

That the said Bill be withdrawn.

That gets rid of both the reference to committee and the bill itself.

Senator Haidasz: I so move.

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

Some Hon. Senators: Agreed.

On motion of Senator Haidasz, Bill S-4 withdrawn.

BILL C-204—SECOND READING

Hon. Stanley Haidasz: Honourable senators, once again I move the second reading of Bill C-204, and I welcome this opportunity to debate, on second reading, this bill, a private member's bill from the other place, introduced by the honourable member for Broadview-Greenwood.

The purpose of Bill C-204 is to regulate smoking in the federal workplace and on common carriers of transportation and to amend the Hazardous Products Act in relation to cigarette advertising.

This bill was given thorough study under the new rules in the other place by a special legislative committee. On February 11 this year it was approved with amendments and sent

back to the House, where it was given third reading on May 31, following the third reading of the government Bill C-51.

Bill C-204 was given significant support on a free vote by members of all parties in the other place. However, 14 members of the cabinet voted against it and the Minister of National Health and Welfare was absent for the vote. Nevertheless, the honourable member for Broadview-Greenwood is to be commended for her success—especially for her determined efforts in promoting this important health issue.

I am sure honourable senators would like to join me in congratulating the honourable member for Broadview-Greenwood on her singular achievement in getting third reading of her private bill, Bill C-204. I can well understand her great satisfaction and elation in getting her private bill passed in the other place—being a member of an opposition party—and something that I also felt when the House passed my private bill, Bill C-164, in 1972, granting a federal charter to Unity Bank, Canada's tenth federal bank, a bill which was later passed by the Senate and given Royal Assent.

The Senate has heard many comprehensive speeches on this important health issue in the past three and a half years, dating from January 1985, when Senator Bosa initiated a debate on the hazardous effects of tobacco smoking, and subsequently I introduced Bill S-8, to protect non-smokers. It was a great source of satisfaction to me that the Senate gave it second reading and referred it to committee. This also applied later that year to Bill S-4 of November 1986, to ban tobacco advertising. Both of these bills were similar to Bill C-204.

This bill focuses on the need to protect non-smokers by providing designated smoking areas in the federal workplace and on the need to discourage this lethal habit by banning the advertising of tobacco products.

The dangers of tobacco smoking were reported by medical authorities as early as 1859 in France, after a study of 68 pipe and cigar smokers who died of cancer of the lip.

In 1938 Johns Hopkins Medical School Professor Pearl proved beyond all doubt that the mortality rate among tobacco smokers was much higher than that of non-smokers. After World War II one of my professors, Toronto thoracic surgeon, Dr. Norman Delarue, demonstrated the relationship between bronchogenic carcinoma and cigarette smoking. Since that time also medical scientists and epidemiologists have linked tobacco to cancer of the bronchii, larynx, tongue, pancreas and urinary bladder; and also to chronic lung diseases, such as emphysema and bronchitis, in addition to some cardiovascular disorders. Recently, however, there has been an increasing awareness of the dangers of inhalation by non-smokers of second-hand or sidestream smoke, often called environmental tobacco smoke. The weight of scientific evidence points to a relationship between exposure to sidestream tobacco smoke and many respiratory and cardiovascular diseases. Pregnant women, also asthmatic individuals and young children appear to be at greatest risk for environmental tobacco smoke.

[Senator Haidasz.]

• (1430)

Epidemiologists in Canada tell us that approximately 35,000 Canadians died in 1985 from tobacco-related diseases and, among them, 300 non-smokers died from inhaling sidestream tobacco smoke. Furthermore, the economic loss to Canada, in addition to the suffering and death of 35,000 Canadians annually, was estimated to be $8 billion in 1982, according to Statistics Canada.

It is a tragic and undeniable fact that tobacco is the number one preventable health problem in Canada today. In order to deal with this major medical and economic problem, health authorities and many health organizations mounted an intensive campaign to prod various levels of government to take serious and effective measures to restrict the use of tobacco and to protect the health of Canadians.

I should add that nicotine in tobacco is also described by medical experts as being a product whose addictive properties are almost equal to those of heroin.

In light of these serious facts and losses, honourable senators, many people feel that tobacco products should be declared hazardous and that their advertising, sale and importation should be controlled, as is the case with many other seemingly less dangerous products. Many city governments, especially Toronto and Vancouver, followed by the federal and provincial governments and the commercial airlines, have finally taken progressive measures to restrict the use of tobacco in public places and to curtail tobacco advertising.

One of the major purposes of this bill, C-204, is the regulation of smoking in the workplace, as far as the federal jurisdiction is concerned. This is dealt with primarily in clauses 3 and 4 of the bill. The basic thrust of these provisions would be to ensure that every employer who is subject to federal jurisdiction shall provide a smoke-free environment in the office or other work space. Smoking would be permitted only in a designated smoking room and, in the case of buildings constructed after January 1, 1990, this room would have to be enclosed and independently ventilated.

Clause 5 of Bill C-204 would extend the ban on smoking, except in a designated smoking area, to common carriers under federal jurisdiction, such as aircraft, ships, railway cars and certain passenger motor vehicles, such as interprovincial buses. The clause would entrench the current regulations under the Aeronautics Act banning smoking entirely on flights of two hours or less. Such flights account for more than 65 per cent of commercial air routes in Canada. At least one-third of passenger railcars would have to be smoke-free.

Clause 6 sets forth various penalties for failure to comply with the bill. These would consist of monetary fines and the maximum penalties would depend on whether the offence was a first or a subsequent offence. In addition, as stated in clause 5, any person who refused to stop smoking on an aircraft where it was forbidden could be removed at the next scheduled landing.

The Governor in Council would be given extensive regulation-making powers by clause 7 of the bill.

Clause 9 of Bill C-204, which resembles my bill, Bill S-4, would also add products manufactured from tobacco to the list of products covered by the Hazardous Products Act. This would enable the Governor in Council to pass regulations regarding the advertising, sale and importation of such products. The government's bill, Bill C-51, the Tobacco Products Control Act, would also deal with advertising of tobacco products. To avoid a possible conflict between the two bills, C-204 and C-51, if they were both enacted, Bill C-204 provides that the Hazardous Products Act would not apply if Bill C-51 were in force.

As a result of amendments at the committee stage, I do not believe there was any conflict between the effects of Bill C-204 and Bill C-51.

Bill C-51, rather than the amended Hazardous Products Act, would apply to the advertising and promotion of tobacco products. It has, in fact, been argued that the addition of tobacco products to the Hazardous Products Act, as proposed by Bill C-204, could assist in supporting Bill C-51 against any constitutional challenge. As I said, Bill C-204 deals with smoking in the federal workplace and on common carriers, subjects that are not covered by Bill C-51. The government has already announced its policy: Smoking in the federal public service is to be completely prohibited by January 1, 1989, while it is anticipated that regulations under the Canada Labour Code will be implemented to restrict smoking in federally-regulated sectors. These policies, however, are not entrenched in legislation.

The government's policy prohibits smoking altogether, at least in the federal public service, while Bill C-204 would allow smoking in designated smoking rooms. Originally Bill C-204 required such rooms to be enclosed and separately ventilated, but this provision was removed by the legislative committee in the other place. Now they only need to be enclosed and separate ventilation is required only in buildings constructed after January 1, 1990. There is no requirement for a smoking room to be provided, although its absence would mean that no smoking at all would be allowed. It should also be noted that Bill C-204, unlike the government's policy, would apply to the House of Commons, the Senate and the Library of Parliament.

Of course, there is controversy over the regulation of smoking in the workplace. Nevertheless, many private sector employers and municipalities, as well as several government departments and agencies, have already instituted such policies. Whether tobacco is the major cause of indoor pollution or merely one of several is also debated by many experts. It is, however, seen as a preventable irritant, and one that can and should be addressed. This is not to deny that many other problems of ventilation and indoor air quality must also be dealt with.

As far as various modes of transportation are concerned, both government policy and consumer demand have caused major changes. I believe that this bill will help a great deal to promote better health standards in Canada. The opponents of this bill who cry that it curtails freedom of commercial speech have no solid ground, because the guarantees in the Canadian Charter of Rights and Freedoms are subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. Preventing the promotion of tobacco, which is a lethal product, a killer, although still legal, is reasonable and justified by the evidence of the numerous deaths and diseases that are the result of tobacco use. In theory, the best way to prevent deaths from tobacco is to outlaw tobacco, but our society is not ready for that as yet.

• (1440)

Honourable senators, we will hear much more about this problem after the bill is referred to committee. I urge honourable senators to give their support to Bill C-204 by giving it second reading as soon as possible and referring it to the appropriate committee without further delay.

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?

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

EMERGENCIES BILL

CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Bill C-77, An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other acts in consequence thereof, the Honourable Eymard G. Corbin in the Chair.

The Chairman: Honourable senators, the Senate is now in Committee of the Whole.

Pursuant to Order adopted earlier this day, Mr. W. Snarr, Executive Director, Emergency Preparedness Canada, and Mr. H.J.L. Molot, General Counsel, Advisory and Administrative Law Section, Department of Justice, were escorted to seats in the Senate chamber.

Senator Doody: Honourable senators, with us now are Mr. Snarr and Mr. Molot who, I am sure you will remember, attended with the minister at the previous meeting of the Committee of the Whole. I am sure they will be pleased to answer any questions honourable senators may have.

The Chairman: On behalf of the Committee of the Whole, I should like to welcome back Mr. Snarr and Mr. Molot and invite them, if they so wish, to make a preliminary statement.

If not, the Chair is prepared to recognize honourable senators who wish to speak.

Since I gather there is no opening statement, I call on Senator Stewart, followed by Senator Frith.

Senator Stewart (Antigonish-Guysborough): There are several points on which I think these two gentlemen can be most helpful. I have a list of those points, but it may be that other senators will want to intervene; if so, I would be more than happy to give way.

My first question relates to the matter of overseas service by conscripted personnel. On May 31, at page 3531 of *Debates of the Senate*, the minister said:

> . . . with regard to conscription, our advice is that this would be legally possible by order in council under Part IV of Bill C-77 . . .

He then turned to the question of sending conscripted Canadians overseas. In this regard, he stated that the Charter provides an obstacle in that it forbids forcing Canadian citizens to leave the country. He quoted section 6(1) of the Charter of Rights and Freedoms, which states:

> Every citizen of Canada has the right to enter, remain in and leave Canada.

However, he also drew attention to section 1 of the Charter, which states that the Charter guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. He told the committee that to send conscripted troops overseas the test of section 1 of the Charter would have to be met.

My question is this: Is it not true that section 1 of the Charter would be no more of an obstacle or restraint on the government in the case of conscripted personnel than it would be in the case of volunteered personnel?

Mr. W. Snarr, Executive Director, Emergency Preparedness Canada: Section 1 of the Charter is a limitation on any action to limit the rights individuals have under the Charter. If a person were asked to leave the country in service of the country and had no objections, obviously there would be no impediment either way. Section 1 would arise if an individual who was being forced to leave took exception to that action and contested the government's authority to do it, in which case he would have recourse to the courts. In those circumstances, the government would have to demonstrate that its action in sending him overseas was reasonable and demonstrably justifiable in a free and democratic society.

Senator Stewart (Antigonish-Guysborough): In other words, you are asserting that the status of conscripted personnel would not be materially different from that of volunteered personnel; is that correct?

Mr. Snarr: The difference only arises—subject to advice from Mr. Molot—on the legal fine points. It seems to me that the difference would only arise in terms of the individual's desire to have access to, or to exercise, his rights under the Charter.

[The Chairman.]

• (1450)

Senator Stewart (Antigonish-Guysborough): The question is—whether or not he wished to exercise his rights—would there be a difference in their status?

Mr. Snarr: I do not think so.

Senator Stewart (Antigonish-Guysborough): That is fine.

I want to turn to quite a different point. At page 3534 of *Debates of the Senate* the minister stated—and I had better have his words before me—that:

> —there is a constitutional requirement that there be—

Senator Frith: Could Senator Stewart tell us where that passage is to be found on that page.

Senator Stewart (Antigonish-Guysborough): I will find it. I simply wrote down the passage and the page number.

Senator Frith: That is fine.

Senator Stewart (Antigonish-Guysborough): It is on page 3534; however, I cannot put my finger on the line. He stated:

> —there is a constitutional requirement that there be a bill to appropriate funds.

The preliminary question is: How immediate to the appropriation does the bill have to be?

We were referring to clause 30(1)(*j*). I should like to ask now what specific requirements does the government have in mind when it asks for the authority to make orders of the kind that would be authorized under that particular subclause?

Mr. Snarr: Mr. Chairman, clause 30(1)(*j*) authorizes the government to make orders or regulations concerning expenditures. The presumption is that these would be expenditures of funds which had already been appropriated or voted by Parliament.

There are a number of acts of Parliament—the Defence Production Act and some of the legislation dealing with the procurement of supplies—that authorize the government to make these expenditures through revolving funds, but in several cases there are limits put on the expenditure of the funds, regardless of or independent of the total amount of money that had been appropriated through legislation.

The purpose of clause 30(1)(*j*) is to permit those limits to be altered, presumably in the positive direction, to enable the government to rapidly expand its procurement program to meet the needs of an emergency, particularly an emergency looking toward possible hostilities and the government needing to acquire materiel for the mobilization of the armed forces.

Senator Stewart (Antigonish-Guysborough): The government is not asking for that specific authorization in the case of a war emergency. Why is no such specific authorization sought in the case of Part IV or war emergency?

Mr. Snarr: The general approach taken to Part IV was that, because of the extreme gravity of a war emergency, where the future existence of the country is at stake, and the complete unpredictability of the way in which the situation might unfold and what demands may be put on the country to meet such an

emergency, the widest possible scope should be given to the government to take action necessary to meet the contingencies.

So, in that respect, clause 40(1) gives very general authority to the government to take whatever action the Governor in Council believes, on reasonable grounds, is necessary or advisable for dealing with the emergency. This is quite similar to the bare bones power that was included in the War Measures Act.

Senator Stewart (Antigonish-Guysborough): If the government were to declare an international or war emergency when Parliament was adjourned, would it be possible to appropriate money from the Consolidated Revenue Fund for purposes not covered by any other appropriation?

Mr. Snarr: I think there is provision under the system of Governor General's Warrants by which appropriations can be made when Parliament is not in session.

Perhaps I can ask Mr. Molot if he is familiar with the finer points of the limitations of the government with regard to appropriating funds through Governor General's Warrants.

Mr. H.J.L. Molot, General Counsel, Advisory and Administrative Law Section, Department of Justice: I am not that familiar with the finer points. There is a system in place under the Financial Administration Act, but the requirements under that particular act would have to be met in order for the warrants to be available. They are only used in extraordinary circumstances.

Senator Stewart (Antigonish-Guysborough): Resort to the use of Governor General's Warrants is not all that rare. The circumstances you have described may be extraordinary, but the use of warrants is not all that unusual.

I asked specifically about the situation when Parliament was adjourned. I know about Governor General's warrants.

Mr. Molot: Do you mean, apart from Governor General's warrants, what other method of appropriation is there?

Senator Stewart (Antigonish-Guysborough): What I am asking is: Is it contemplated—we were told that the government had looked ahead and tried to anticipate any eventuality—that if the government had to declare an international or war emergency when Parliament was adjourned, the government would use Governor General's warrants for its new financial requirements? Is that what you have in mind?

Mr. Molot: No, we do not have that in mind. That is, I suppose, a possibility, but I think the straightforward approach would be that if Parliament were adjourned at the time that the money was needed then Parliament would be recalled.

There are other provisions in the bill in which Parliament's role is essential, as you are aware, and so Parliament's presence is necessary in order to—

Senator Stewart (Antigonish-Guysborough): Let me put before you a more difficult situation. In the event that Parliament were dissolved, would it be the intention of the government to use Governor General's warrants?

Mr. Snarr: Mr. Chairman, it would be the intention of the government to take whatever action was necessary, in the interests of the survival of the nation, within the bounds of what is constitutionally and legally possible. Certainly, if Parliament were dissolved and the only recourse to the funds that were required was through Governor General's warrants, that would be the intention.

Senator Stewart (Antigonish-Guysborough): So, if that circumstance ever arose, the intention would be to make use of Governor General's warrants. Is that your response?

Mr. Snarr: I think this would be the avenue of last resort, yes.

Senator Stewart (Antigonish-Guysborough): You implied that there are other avenues. What we are trying to discover is what we are delegating, and when you say "this would be the avenue of last resort", what other avenues are you implying? Do you have any in mind? Frankly, I do not know of any. You seem to suggest that there are others.

Mr. Snarr: The other avenue would be to go through Parliament and appropriate funds in the normal fashion.

• (1500)

Senator Stewart (Antigonish-Guysborough): So, assuming that Parliament had been dissolved, the government would be left only with Governor General's warrants. That is understandable.

My third point relates to taxation. At page 3531 of *Debates of the Senate*, the minister dealt with a question that I had raised concerning taxation. He said:

> Finally, with regard to taxation, I am pleased to say that I can give a short, unequivocal answer. Taxes cannot be imposed by order in council. The Constitution sets out quite specific procedures for levying taxes and a bill is always required.

It is elementary that new taxes must have a statutory basis, but the bill now before us prompts two questions. The first is: Can Parliament delegate the power to impose a tax? The second is: If so, is the government, by this bill, asking Parliament to delegate the power to impose taxation? Those are the two questions I would like to have answered.

Mr. Snarr: In answer to the first question, the advice we have been given is that Parliament cannot delegate the power to levy new taxes. In the light of that information, I think the second question is irrelevant.

Senator Stewart (Antigonish-Guysborough): Yes. When you say "we have been given", you are not now speaking as a minister; so are you implying that you have outside counsel on this point?

Mr. Snarr: Perhaps I should have said that the answer I have been given by the Department of Justice is as I stated.

Senator Stewart (Antigonish-Guysborough): In other words, that is Mr. Molot's answer?

Mr. Snarr: I assume that Mr. Molot has the full resources of the department at his disposal and that, where necessary, he consults his colleagues.

Senator Stewart (Antigonish-Guysborough): All right. You have said that it is the position of the government that the power to impose new taxes cannot be delegated by Parliament. Is that provision to be found in the Constitution Act, 1867, and, if so, where?

Mr. Snarr: That is my understanding, senator. Perhaps Mr. Molot can speak to this point.

Mr. Molot: I did not bring that act with me, but I believe this matter is covered in section 53 or section 54.

Senator Stewart (Antigonish-Guysborough): I have a copy of the act here. Perhaps I could put it in your hands so that you can read the relevent section.

Mr. Molot: Section 53 states:

> Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Then there is a procedure attached to that, in section 54, whereby that bill must be preceded by a recommendation of the Governor General. That has been taken to mean that all taxing measures must originate with a bill and that the bill must originate from the House of Commons.

Senator Stewart (Antigonish-Guysborough): Upon a recommendation, in the case of both appropriation and taxation?

Mr. Molot: Yes.

Senator Stewart (Antigonish-Guysborough): Is there jurisprudence on this point? Has it been decided by a court of relevant jurisdiction that Parliament cannot delegate the power to tax?

Mr. Molot: In theory, if there were an express provision in a bill delegating to the Governor in Council, for example, the power to impose tax or to set the rate of tax, that might lead to an arguable case that section 53 is being complied with.

Senator Frith: Yes, as long as the bill originated in the House of Commons.

Mr. Molot: That is right, and as long as the delegated power is expressed. But there is no power of this sort expressed in Bill C-77. I would assume that a court, not finding it there, would say that section 53 of the Constitution Act has not been complied with.

Senator Stewart (Antigonish-Guysborough): You say you would "assume".

Mr. Molot: Since I am not aware of a case, senator, I can only give my legal view that I do not think a court would agree that Bill C-77 has authorized delegated legislation to impose tax.

Senator Stewart (Antigonish-Guysborough): Do you know of any case, tried by a court of relevant jurisdiction, that has said that express words are necessary?

Mr. Molot: There may be one, but I am not aware of it.

Senator Stewart (Antigonish-Guysborough): So, the government takes the position that, since there are no express words in this bill delegating the power to tax, that power is not being delegated?

Mr. Molot: Yes.

Senator Stewart (Antigonish-Guysborough): Are there any other powers of Parliament that it cannot delegate except by express words? We were told just now that the delegation, in the case of a war emergency, is of "the widest possible scope". I think those were the words used. Are there any other powers that are held back because they are not delegated in this bill by express words?

Mr. Snarr: One power came up several times during the discussion of the human rights implications of Bill C-77, and that was in relation to section 33 of the Charter of Rights and Freedoms, the so-called "notwithstanding clause". It was contended by one of the witnesses who appeared before the legislative committee in the House of Commons that the Governor in Council could, by order, invoke the provision of the "notwithstanding clause" and thereby set aside some of the basic rights that we all enjoy under the Charter.

Again, on the advice of legal counsel, the government is convinced, it is virtually certain, that any court would rule that such action was *ultra vires*, that no government would be so disrespectful of the laws of the country even to attempt such an action.

Senator Stewart (Antigonish-Guysborough): I know the point to which you refer. Perhaps it would be useful to the committee if you were to put on our record the words of subsection 33(1).

Mr. Snarr: Subsection 33(1) of the Charter reads:

> Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.

The operative words, of course, are "in an Act of Parliament or of the legislature".

Senator Stewart (Antigonish-Guysborough): You are saying, it is the government's position that, even by express words, Parliament could not delegate to the Governor in Council the right to exercise the "notwithstanding" power.

Mr. Snarr: That is correct.

Senator Stewart (Antigonish-Guysborough): Unfortunately, you used the words "the government is convinced" and "virtually certain", instead of "absolutely certain".

Mr. Snarr: One can only be absolutely certain in these matters when the situation has occurred and has been contested and ruled upon by the highest court of the land.

Senator Stewart (Antigonish-Guysborough): So you would be prepared to advise, for absolute certainty, that an amendment be made, provided, of course, that it did not take a great deal of time?

Mr. Snarr: I would certainly not recommend that there be an amendment for absolute certainty. The certainty is so great that an amendment is, in my view, completely unnecessary. Not only that, it would seem to me that whenever one introduces clauses in legislation, albeit for the meritorious objective of greater certainty, one is undermining, in effect, the related legislation or the related legal foundations on which the whole of our system is based. It brings into question that if one does not put in the "for greater certainty" clause in other legislation, it opens up a greater degree of uncertainty.

• (1510)

Senator Stewart (Antigonish-Guysborough): My next line of questioning deals with the matter of setting aside the provisions of other statutes. Under this bill it will not be possible for the Governor in Council to put aside the provisions of this statute. That opens up the question of putting aside the provisions of other statutes. On May 31, 1988, Mr. Beatty appeared before us. At page 3541 of *Debates of the Senate*, Mr. Beatty said:

> I am told that it might be possible in instances where it was directly relevant and necessary to deal with the emergency provided for under this statute.

I then comment:

> So your answer is yes, by an order in council or a regulation made under this act, statutes enacted by Parliament could be set aside. You are asking for that power?

Are there any statutes, other than the one that would eventuate from Bill C-77, if it passes, that are exempt from the power that the government is seeking in the bill—the power to set aside provisions of acts of Parliament by orders in council?

Mr. Snarr: As far as I know, there is no legislation that could not be temporarily overridden, if it were necessary to do so, to meet the purposes of this legislation.

Senator Stewart (Antigonish-Guysborough): So this is really a super statute. There is the Constitution, then there is this statute and then there are all the other statutes, which are subordinate.

Mr. Snarr: The qualification that the order or regulation makes, insofar as it overrides other legislation, must be very narrowly confined to matters which are intended toward the purpose of the act, that is, dealing with the emergency. There is a considerable body of legislation which constrains the procedure under which this is done. I have in mind the Statutory Instruments Act, for example, which gives quite a degree of confinement as to what the government can do by order or regulation.

In my view, it would not be possible for the government, on the basis of Bill C-77, to enact a regulation which, in effect, undid the restrictions that were in the Statutory Instruments Act.

Senator Stewart (Antigonish-Guysborough): Are you saying that that would be legally impossible?

Mr. Snarr: That is my view, yes.

Senator Stewart (Antigonish-Guysborough): Is that the view of the government?

Mr. Molot: I think that is true, senator. That is given added support by the very fact that reference is made in the body of the bill to the Statutory Instruments Act. Therefore, it becomes a basic or fundamental part of the structure of Bill C-77. The same could be said for the Canadian Bill of Rights. Presumably that could not be "notwithstood" by order.

Senator Stewart (Antigonish-Guysborough): You say "presumably".

Mr. Molot: Again, we have the preamble.

Senator Stewart (Antigonish-Guysborough): Nevertheless, this is really a super statute.

I come now to the question of grounds for internment. Although the minister made a great effort to be helpful on this subject, I am not sure that I, for one, understand exactly what would happen. There would be regulations such as the Defence of Canada Regulations. Under those regulations, let us say that an appropriate official makes an order for internment of a specified person. We are well down the genealogical tree from the emergency act itself.

What would happen in a court? The *habeas corpus* writ would be obtained. There would be counsel. Clearly, there would not be a trial on a charge, because there would be no charge. The person has been taken into custody, not because of something he or she has actually done that was contrary to the law but in anticipation that he or she might do something which would be damaging to the peace, order and good government of Canada. Therefore, there cannot be a trial on a charge.

The government of the day would be saying that they believe, they guess that it would be better if this person were put away for a while. The minister said that all facts would be disclosed. I wondered at the time if he had thought that through. At page 3532 of *Debates of the Senate* of May 31, 1988, I asked him:

> The question is: Will the person who is challenging his own detention be able to require the government to disclose the facts on the basis of which the detention order against him had been made?

The minister replied:

> To the court, yes.

What facts would be disclosed?

Mr. Snarr: Subject to further refinement from Mr. Molot, the situation would be that the principle of *habeas corpus* would be invoked and the government would be required to show cause why the individual should continue to be kept in custody. In order to do that, the government would have to demonstrate that keeping the individual in custody was consistent with the law. With all the protections that are available through the Charter and through the explicit protections in Bill C-77, the government would have to disclose enough information to the court to convince the judge that what he or she was doing was legal, that the Crown had reasonable

grounds on which to take this action, and that the individual was not being detained on the basis of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Senator Stewart (Antigonish-Guysborough): We all understand that it would have to be shown that the detention was consistent with the law. However, the law may well say that, if the minister believes someone is likely to commit an offence, that person may be detained. In that case the requirement that the detention be consistent with such a law would not mean very much.

I do not intend to ask my next question as a rhetorical question. It is not the judgment of the court as to whether the facts that the minister has available to him are adequate for the court to form a belief. It is simply that there are facts and that a reasonable person might, on the basis of those facts, form the belief that, in the particular case, the minister happened to form. Is that not the situation?

Mr. Snarr: Senator, that is precisely the situation. The only way a judge could determine the answer to the question you pose is to have those facts given to him so that he could decide whether a reasonable person would form the belief that it was necessary to incarcerate the individual.

• (1520)

Senator Stewart (Antigonish-Guysborough): I asked if the facts would be disclosed, not to the judge or the court but to the person.

Let me come at it this way. I am asking the witness if he is aware of situations which arose during the Second World War, where, for security reasons, it was impossible to tell persons interned why they were being interned. In other words, to inform them of the causes of their internment would be to violate state security. Are you aware of that problem? You have stated that, notwithstanding that, we will give these persons, who we believe are a threat to the security of Canada, information which may well be damaging to the security of Canada. Is that what your bill is doing?

Mr. Snarr: Certainly not; the bill is not doing that at all.

At the risk of repeating myself, the bill states that, if the matter is contested, the government must put that information in the hands of the judge.

Senator Stewart (Antigonish-Guysborough): So the minister was not quite responsive when he replied with a "yes" to my question, when I asked: "Will the person who is challenging his own detention be able to require the government to disclose the facts on the basis of which the detention against him had been made?"

Mr. Snarr: I think the minister was being quite specific and forthcoming in his reply that, yes, the government would be obliged to disclose the facts.

The disclosure must be sufficient, and sufficiently in accordance with accepted procedure to justify within our judicial system the individual's incarceration.

There is an additional Charter protection, as far as the individual is concerned, that states that everyone has the right on arrest or detention to be informed promptly of the reasons therefor. If the government wished to deny that information to the individual being held on security grounds, they would have the additional obligation to explain to the judge why it was reasonable and demonstrably justifiable, in a free and democratic society, that this information be withheld.

Senator Stewart (Antigonish-Guysborough): But you are conjuring up in my mind the image of a minister going to a judge and saying, "I believe he or she is a dangerous person and the reasons I happen to think this are such and such. I cannot say them in an open court, but these are the reasons."

Mr. Snarr: I can visualize situations in which that kind of process would be entirely justified.

Senator Stewart (Antigonish-Guysborough): That is the answer that I was expecting. I had hoped that I would get it by a less circuitous route.

Mr. Snarr: It would be under extreme situations, and very unusual, and ones that one would expect to occur only in rare instances, even in the depths of a disastrous war.

Senator Frith: Mr. Chairman and Senator Stewart, would Senator Stewart allow me to pursue that point?

Senator Stewart (Antigonish-Guysborough): Please do.

Senator Frith: I wish to clarify something.

Listening to the exchange, the first question was that, assuming a person who is detained asks for a writ of *habeas corpus*, and on return of the writ before the judge the person asks for the facts, that immediately raises the question of ministerial discretion, and the Crown is right—not this minister, but any person who exercises the executive's right—to claim executive privilege for reasons of national security or otherwise. I think Duncan and Cammell-Laird is one of the leading older cases on this question.

I thought that what Senator Stewart was pursuing was: Is there anything in this bill that would change the right of the executive to claim privilege against disclosure? I then heard you say that the bill would require it. That is what triggered my curiosity. Is there something in this bill that deals with the question of executive discretion in those circumstances, other than the general law that enables the executive to claim this discretion and protection, and then limiting how far the court can go behind it?

Mr. Snarr: What is different in this bill from a lot of other legislation that gives the executive certain powers is the repetition throughout the bill, in every place where the Governor in Council is authorized to take exceptional actions, that the action must be reasonable and he must believe on reasonable grounds that it is necessary. So there is an objective test for everything that the executive does. That is tied up with the words "the Governor in Council believes on reasonable grounds—"

This is an important change that was made to the bill between first reading and eventual passage. In the original

drafting of the legislation, in all those places where you see those words "believes on reasonable grounds", it said, "Where in the opinion of the Governor in Council it was necessary."

Senator Frith: Yes.

Mr. Snarr: This would be completely unchallengable; there would be no test whatsoever.

Senator Frith: That is an answer. Thank you.

Senator Stewart (Antigonish-Guysborough): I have one other question, which is a different kind. We know that the powers that will be exercised by the government under this bill, if it becomes a statute and its provisions are invoked, could well reach into areas which normally come under the exclusive legislative jurisdiction of the provincial legislatures.

On the basis of the minister's answer, I assume that careful anticipation has been made; that a war book has been prepared; and that you have analyzed what areas of provincial legislation would come under the Governor in Council, although those areas would not come under the Parliament of Canada. What would some of the leading areas be? What would the principal areas be which would be taken over and cease to fall under our normal federal structure?

Mr. Snarr: It is difficult to generalize on that point. I might preface my response by saying that, depending on the situation, there is almost no area of provincial jurisdiction that might not need to be intervened in because of the exigencies of emergency.

The easiest way to describe the sort of things that might be necessary is to state that to meet the needs of a national emergency there could be a need to marshal the resources of the country as a whole towards that emergency, where resources and capabilities that exist in one province might have to be applied in another province or put together to be applied outside of the country in the case of war.

Looking at a domestic peacetime emergency, where the provinces may be perfectly willing—in fact, even desirous—to help out their fellow citizens in other provinces, there is not the legal or constitutional authority for them to requisition resources within their own province and apply them in other provinces. Federal authority would be the only one available.

● (1530)

One could give other examples, particularly in a war-time context. For example, matters having to do with the local management of the economy, which are generally left to the provinces—and here I am referring to things such as the distribution of the necessities of life. In times of war when these became scarce, in order to be fair throughout the country, it might be necessary to introduce federal measures which would impose or supersede the authority of the provinces in those areas.

Senator Stewart (Antigonish-Guysborough): Would it be possible, by order in council, to declare works to be of national importance? I have forgotten the exact subsection in section 92 of the Constitution Act, 1867 that permits Parliament to make works federal. Would it be possible to do that by order in council in a sufficiently great emergency?

Mr. Snarr: It would seem to me that it might be possible, but it would, in a sense, be superfluous. If the action of taking over some activity which was normally within provincial jurisdiction were necessary in order to meet the exigencies of a situation, then the federal government would only need to pass an order to that effect; it would not have to use the constitutional basis of declaring a federal work.

Senator Stewart (Antigonish-Guysborough): There is a normal constitutional process. What I am asking you is if that normal process could be avoided by use of an order in council under the powers of this statute?

Mr. Snarr: Mr. Chairman, the advice I am given—and I must qualify it to be of the "off-the-top-of-the-head" variety, if Mr. Molot will permit me—is that to invoke the provision of the Charter that permits the federal government to declare certain undertakings or works as federal works and thereby bring them within the federal jurisdiction—

Senator Frith: Excuse me, it is not in the Charter; it is in the Constitution.

Mr. Snarr: I am sorry, it is in the Constitution—that it would require an act of Parliament to use that specific power. However, I would still maintain that, if the needs of the emergency were such that that was necessary, the federal government could still have the same effect through an order in council, pursuant to the Emergencies Act, without having to make reference to the constitutional provision.

Senator Stewart (Antigonish-Guysborough): We were told by Mr. Beatty that extensive consultation had taken place with the government of each of the provinces, I believe. Was there, in fact, discovery on this point? In other words, did you notify Prince Edward Island, Quebec and British Columbia that, by order in council, it would be possible to take over works within provinces which would normally be under provincial jurisdiction? Was that question explored with them?

Mr. Snarr: I can assure honourable senators that, without any doubt whatsoever, the provinces were fully aware of the implications of Bill C-77 with regard to intervention into matters normally within their jurisdiction. That, in fact, was their primary concern in almost all of the discussions that took place, both at the level of officials and at the level of ministers. The provinces repeatedly wanted to be reassured about the limitations that would be put on the government through this bill so that such intervention into provincial affairs would only be done where it was absolutely necessary.

In fact, I may say that at some of the earlier discussions several of the provinces took exception to this and contested whether, in this day and age, such intervention was constitutionally possible. However, it only took a very few minutes of consultation with their own legal authorities to inform them that it certainly was possible and was, in fact, the basis of the emergency doctrine of the Constitution.

Senator Stewart (Antigonish-Guysborough): I have one remaining question. Is there legislation in the United Kingdom that is comparable to Part IV of this bill?

Mr. Snarr: No, there is not. The Defence of the Realm Act, which was passed by the United Kingdom on separate occasions, you might say, in relation to the two world wars, was subsequently repealed after each of the wars. However, they do have other legislation in place to deal with peacetime emergencies which is much briefer than Bill C-77. In some respects, it is not as comprehensive, since, being a unitary state, they do not have to be concerned with the federal-provincial implications, as we do. Also, I might say that in many instances they have not paid the same attention to detail with respect to the safeguards of individual rights and to detail with respect to the supervision of Parliament.

Senator Stewart (Antigonish-Guysborough): So you are saying that in the United Kingdom there is no parallel to Part IV of this bill and, in fact, no parallel to Part III. Is that right?

Mr. Snarr: As I say, there is certainly no parallel to Part IV. However, I am not sure, just on the basis of memory, of the extent to which their emergency legislation would permit them to take preparatory action in a national crisis, which is the intent of Part III.

Senator Stewart (Antigonish-Guysborough): Thank you, Mr. Chairman.

The Chairman: Next on my list I have Senator Frith and he will be followed by Senator Marsden.

Senator Frith: Mr. Chairman, the questions I had have been canvassed by Senator Stewart and by the witness. I will therefore yield to Senator Marsden.

Senator Marsden: Mr. Chairman, I am wondering if it is fair to assume that the witnesses read the transcripts of our exchange with the minister and therefore have read the questions which I put to Mr. Beatty, when he came before us the other day, concerning the public welfare emergency section. Is that a fair assumption?

Mr. Snarr: If you recall, senator, we were present.

Senator Marsden: My apologies. I would like to go back to that question, if I may, Mr. Chairman, and I would like to refer specifically to the question of internment. I may just be missing something here, but, under the orders and regulations section of the bill, clause 8(1) states that in a public welfare emergency the Governor in Council may make such orders or regulations with respect to the establishment of emergency shelters and hospitals; evacuate people; regulate or prohibit their travel; take away or dispose of their property, et cetera.

What is the difference between that and internment, which the minister said was not possible under a public welfare emergency?

Mr. Snarr: Once an individual has been interned, we generally envisage a situation in which he has been put in a very restrictive and confined environment and is not allowed to stray therefrom for any purpose whatsoever. The kind of provisions that are envisaged in clause 8 for a public welfare emergency are designed to provide for the safety of individuals and are therefore more what one might call the "inverse of internment". There are areas from which people would be excluded, but, aside from that, they could roam wherever they pleased.

Senator Marsden: May I then ask if the witness is saying that that is what clause 8(1)(*a*) means when it says:

> (*a*) the regulation or prohibition of travel to, from or within any specified area where necessary . . .

It sounds to me as though such people might be quite confined. Perhaps another way of asking the question is this: Is "internment" defined somewhere in this bill or in some other act where I might look?

● (1540)

Mr. Snarr: Senator, to answer your second question first, the word "internment" is not defined in this legislation and, to my knowledge, I do not think it is defined elsewhere. I can see your concern, particularly with regard to the word "from" in the phrase "the regulation or prohibition of travel . . . from . . . any specified area where necessary for the protection of the health or safety of individuals." One ought to keep in mind in considering the implications of that clause that we are talking, first, about a natural disaster or major accident. It is simply a temporary situation and the power to invoke measures pursuant to clause 8 are restricted to a relatively short timeframe. The measures must be very strictly confined to those that are necessary in order to meet the purposes of the act, which, in this particular clause, is "for the protection of the health or safety of individuals." The example that comes immediately to mind with regard to the prohibition on travel from a specified area is one where there is the necessity to quarantine certain individuals who are suffering from a highly contagious disease, both for their safety and for the safety of others. It may be necessary to confine them while they are in the condition where the disease is communicable. This, however, is not the least bit exceptional. I would not be surprised if there is sufficient authority within legislation with regard to the Department of National Health and Welfare or at the provincial level to take the kind of measures necessary to meet that situation, and therefore this legislation would not even need to be invoked for that purpose.

Senator Marsden: In the example that is offered, no doubt you are quite correct. Of course, the provision requires that the internment can be no longer than seven sitting days before it has to be reviewed. As you know, one has to try to think of extreme circumstances to determine how much protection the bill will provide. I come back to the question of why the minister would have replied that there is no power of internment, when, for at least seven days and perhaps longer, people may be confined to an emergency shelter, which, I suppose, could be called an internment camp under certain circumstances, and may not move "to, from or within" an area. What is the difference? I do not see the difference between that phrase and internment.

Mr. Snarr: The difference relates to the purpose for which the restrictions are being applied and, indeed, with regard to the specific nature of the restrictions. I do not have a dictionary with me so I do not know what the generally accepted dictionary definition of "internment" is. It conjures up in my mind, as I am sure it does in the minds of many people, rather arbitrary confinement in a prison-like environment, where the concern is not so much with the safety of the individual as it is with what that individual might wilfully do to other people or what damage the individual might wilfully do to the rest of the country. It conjures up in my mind something very similar to imprisonment, detainment and so on.

Coming back to the example I used, when we talk about quarantine, we do not use the word "internment".

Senator Marsden: Recently I have had occasion to look at provincial legislation on this matter and it varies considerably from province to province. One can easily imagine where the federal government might wish to step into a situation involving disease. Many provinces have the power to deal with such incidents and some have power which may or may not be adequate, so this provision may have to apply in some future case.

The witness has described what this provision conjures up in his mind. It conjures up in my mind something entirely different. I can think of conditions in modern life where people might be declared insane or, for example, where some post-World War II condition might apply, and one can see the possibility of confinement for seven days. What kind of protection would those people or their relatives have if the people so confined could not move within the specified area, could not have contact with one another and they could not travel in or out? What kind of protection does this act provide within that seven-day period, before the House of Commons comes to their rescue?

Mr. Snarr: On your first point, the emphasis in paragraph 8(1)(*a*) ought to be placed on prohibition of travel. In other words, the power is not given to detain or to intern but to prohibit travelling, which has a slightly different connotation. I can see that you could interpret it in such a way as to mean travel within, for example, a 30-square-foot area, but I think the word "travel" connotes something more than that, and that therefore what you have described would not likely be permitted under paragraph 8(1)(*a*).

On your second question, there is, of course, the Charter rights which prevent people from being arbitrarily detained. Everyone has the right upon detention to be informed, and there are the legal rights which apply to everyone. If the order were worded in such a way as to confine travel significantly enough, then it would not take much imagination to conclude that that means detainment, and therefore the Charter of Rights and Freedoms would be triggered.

Senator Marsden: Thank you.

The Chairman: Honourable senators, I have no other names on my list at this time. Therefore, on behalf of the committee, I thank the witnesses for coming here today.

Senator Doody: Mr. Chairman, I move that the committee adjourn, report progress and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

• (1550)

The Hon. the Acting Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Eymard G. Corbin: Honourable senators, the Committee of the Whole, to which was referred Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof, reports progress and asks for leave to sit again.

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

Hon. Senators: Agreed.

The Hon. the Acting Speaker: Honourable senators, when shall this committee have leave to sit again?

Hon. C. William Doody (Deputy Leader of the Government) moved that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

Motion agreed to.

PATENT ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bonnell, seconded by the Honourable Senator Petten, for the second reading of the Bill S-15, An Act to amend the Patent Act.—(*Honourable Senator Cogger*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Cogger did intend to speak to this order today, but he had to leave to attend a committee meeting. He will be ready to proceed either tomorrow or on Tuesday next.

Order stands.

AGRICULTURE AND FORESTRY

WESTERN CANADA—DROUGHT CONDITIONS—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming the debate on the consideration of the Eighth Report of the Standing Senate Committee on Agriculture and Forestry (drought conditions in Western Canada), presented in the Senate on 31st May, 1988.—(*Honourable Senator Fairbairn*).

Hon. Joyce Fairbairn: Honourable senators, before returning to western Canada and the drought area, I wanted to take part in this debate to comment on the report which our committee placed before this chamber a week ago.

Two weeks ago the Standing Senate Committee on Agriculture and Forestry heard from the Minister of Agriculture, Mr. Wise, after this house agreed that there was a sufficient emergency situation to enable us to carry on a special study on the drought and to make recommendations.

I should like to recall what the minister said to us when he appeared before our committee two weeks ago. At that time he was discussing what might happen if the existing weather conditions continued in the prairie region. Mr. Wise said:

> If this develops, following logic and common sense, we would first move water through pumps and pipes; then there would be the movement of livestock. We would have to deal with the herd sell-down. We would have to deal with herd movement and with forage movement; we would have to make some adjustments in crop insurance; we would have to work in the interests of good soil conservation, and then we would probably have to base the bottom line, as far as losses are concerned, upon crop losses . . . We are going to have to deal with all of these various phases if we do not get a good rainfall.

Mr. Wise concluded by saying the following:

> I cannot tell anybody what the bottom line is going to be. If the drought develops, we will have to put in place a costly program, but we are going to have to be there.

Honourable senators, those comments were made two weeks ago, and I enter this discussion to say, with as strong a conviction as I can, that now is the time for the government to be there for the farmers in western Canada.

Last week Mr. Wise and the Ministers of Agriculture of the prairie provinces met in Calgary to consider the situation. They made two announcements which would be of assistance to the farmers. One was related to assistance by way of new water-supply works, such as wells, pipelines, dugouts and tank-loading facilities. These are projects that are carried out over a period of time.

The other announcement they made—and it relates to something which many of us have urged—was that provincial crop insurance boards would allow fall seeded crops to be immediately utilized as pasture or green feed for cattle. This, too, was a welcome announcement.

However, the minister stopped at that point and said that they were waiting for a further signal from the farm community before going into what the minister called "Phase II" in government assistance to the drought area.

Honourable senators, one needs only to fly across western Canada to know that Phase II is more than just upon us. Looking out of the window of an aircraft one is now seeing not pasture land, not prairie farms, one is now seeing virtually desert.

[Senator Doody.]

The farmers all across the prairie area have had no relief in the last two weeks in terms of rainfall. They have had a little here and a little there, which is just enough to settle the dust. In some cases the land is so dry and so hard that the water simply runs off and is not absorbed in order to permit growth.

In my province of Alberta, 60 per cent of net farm income comes from the livestock industry. In talking to farmers from Alberta this morning I am given to understand that the price of feed is adding a tremendous burden to their already shaky financial position. I am told that barley has been going up to the tune of five cents a bushel a day and that it has doubled in price in the last six weeks. The price of hay to the farmer in my area has tripled.

The cow-calf pairs, which form the absolute heart of the basic herd for livestock producers, are already starting to be sold, although perhaps not in great numbers, because farmers are waiting, hopefully, for a couple of more weeks so that their calves will be stronger and in better shape to face a buyer's market.

In terms of seeding crops, we are looking at one more week before farmers start running out of frost-free days. Germination in western Canada is already extremely spotty. Some estimates suggest that we are looking at a reduction of as much as 50 per cent in terms of our wheat crop this growing year. Farmers are asking that screenings from the grain shipments at the ports of Thunder Bay and Vancouver be turned around and that the government allow the Crow rate to apply to moving those screenings back to the prairies so they can be used to feed the cattle.

Honourable senators, one must remember that, before the drought, farmers all across the west were staggering under the burden of debt and financial strain brought about by issues well beyond their control in the international market through the subsidy wars between Europe and the United States. On top of that financial stress comes the drought, and now a third element, a final blow—what they are calling out in the west "a depression Thursday"—the day each week that interest rates are rising and taking away from the farmers any tiny quantum of hope they might have had of meeting their financial obligations.

● (1600)

Finally, if you put all of this together, there is the hidden problem that even farmers do not wish to talk about, and that is the personal stress and hardship placed on the lives of farmers and on the lives of their families. Community support services all across the prairies are meeting day and night to deal with suicide calls and to try to reach out to help farm families involved in this emotional situation.

All of this, honourable senators, leads me to conclude—and all of us must conclude—that, even if we have a complete turnabout in the weather, western Canada will still face a fearful depression in the months ahead.

The Standing Senate Committee on Agriculture and Forestry's report asks the government for transportation assistance

to pay a portion of the cost of transporting forage to drought affected areas. The farmers need that now.

The report asks for transportation assistance to pay a portion of the cost of moving livestock to and from any available grazing areas. The farmers need that now.

The committee report asks for assistance to pay a portion of the cost of transporting water—hauling water—to areas affected by the drought. The farmers need that now.

Finally, the committee report asks the government to consider a special deferred income tax arrangement for farmers who have been forced to sell off their livestock inventory under these conditions. The farmers need that encouragement from the government now in order to plan for their future.

Honourable senators, I move, seconded by the Honourable Senator Olson, that the eighth report of the Standing Senate Committee on Agriculture and Forestry be adopted in order to give tangible evidence of persuasion on behalf of our farmers for the government to make its next move immediately.

Motion agreed to and report adopted.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-FOURTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifty-fourth report of the Standing Committee on Internal Economy, Budgets and Administration (Budget of Ad Hoc Committee on Senators' Research Expenditures), presented on Tuesday, June 7, 1988.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move the adoption of this report.

Motion agreed to and report adopted.

"SOME OF MY BEST FRIENDS DIDN'T LOOK LIKE ME"

Hon. Philippe Deane Gigantès rose, pursuant to notice of Tuesday, June 7, 1988:

> That he will call the attention of the Senate to the question "some of my best friends didn't look like me."

He said: Honourable senators, this is about those friends of mine who do not look like me. One who might be a friend, if I knew him, bears the difficult name of Dimitrios Papavramides. Believe it or not, he is the President of the Ontario Orange Lodge—multiculturalism is wonderful!

This gentleman has proposed in public that only WASPs—White Anglo-Saxon Protestants—be allowed into this country as immigrants. Well, if I met him I would have to tell him that we would not get any immigrants, because in the 59 countries I have visited all I found were Romans, all of whom were saying to me, "When in Rome, do as the Romans do."

That is what I tried to do. I observed some Romans and found that they enjoyed wine, women, song and even dancing. I tried all four and acquired four inferiority complexes I did not have before.

Senator Corbin: Some of them were eaten by the lions!

Senator Gigantès: Yes.

I gesticulate, as Romans do, and on one occasion, while with Senator Petten and Senator Graham, I was gesticulating when Senator Graham said: "What would happen if you Greeks could not gesticulate any more?" I answered: "Do you think the ladies would like it?", and he blushed and left, which explains why I get into so much trouble.

Senator Frith: It does, indeed!

Senator Gigantès: I was advised by all of the Romans I met in all parts of the world to be meek and not to blow my own horn. They did not add, but they let it be quite clearly understood, that they wanted me to blow theirs, just as the bankers very properly hired Mr. MacPherson to blow their horns for them.

Senator Barootes: You have the wrong name. It is "MacIntosh".

Senator Gigantès: Well, we Greeks get mixed up with all of these Scottish names. On the small island I come from, when I was small and going there on summer vacations, people told me that I should never trust the Campbells. I did not know to which Campbells they were referring—

Senator Barootes: Did you say "Campbells" or "Tamils"?

Senator Gigantès: Campbells. One Scottish lady had gone there two centuries earlier. She was a MacDonald. She had told the islanders that the Campbells were not to be trusted. Lo and behold, this small Greek island did not trust the Campbells, without knowing why.

Senator Phillips: Was that Flora MacDonald?

Senator Gigantès: No, but she would have been welcomed. We like redheads in Greece.

So I went from one place to another and I found that my behaviour would be considered eccentric, but, for instance, in England the behaviour of a well-known Colonel Wintel was not considered eccentric. A solicitor had done his family out of some inheritance and Colonel Wintel, a renowned commando, took the trousers off this solicitor and flew them from the masthead of Wintel Castle. This was applauded in Britain as being very suitable. Imagine the response if I had done that or if a Pakistani had done that.

• (1610)

Senator Frith: The life of a solicitor can be difficult!

Senator Gigantès: Yes. I remember going to a small village in India as a correspondent. There I saw a young man riding a white horse, and there was great anger all around because he was an Untouchable. He was not allowed to show off on a white horse. Only the other caste, the Brahmans, were allowed to do that. He was stoned to death before my very eyes. I was restrained from helping him, and the policeman who was present, to whom I protested that murder was being commit-

ted, said, "What murder?" He could not see it. Honourable senators, only some people have the right to show off.

Then there is the question of names. One of my honourable colleagues, whom I much admire and whose wit and intelligence is second to none, asked me one day whether "Deane Gigantès" was hyphenated. Well, one would have had to have mingled with Anglo-Saxons to know about this hyphenation ritual. I assured him that it was not. Honourable senators, there is a long story attached to this strange name of mine. I used to be called "Gigantès" when I was working for the London *Observer*. Someone there said to me, "You know, old chap, your name does have a classical ring to it, but we can't expect the ladies and gentlemen who read our paper to get their tongues around it, so I think we shall call you Philippe Deane hereafter—hah." And so I became "Philippe Deane".

Hon. David Walker: Mr. Speaker, I have been listening—and we all have—to complete irrelevancies.

Senator Gigantès: I beg your pardon?

Senator Walker: The honourable senator is talking through his hat. He hasn't said a sensible thing since he got to his feet, and I object to it. We put up with this man year after year, whenever he feels he has enough nerve to go on. It is just a lot of nonsense from beginning to end, and so it has been today. Mr. Speaker, I am respectfully suggesting that he either sit down or, when he gets up next, that he be sensible and relevant.

Senator Gigantès: Honourable senators, this is an illustration of some of the things I have been trying to convey. What is sensible and relevant to some is not sensible and relevant to others. And, of course, the longer you have a right somewhere, the more you write to establish the rules about being sensible.

Senator Walker: That was a smart answer.

Senator Gigantès: It was a Scot, Macbeth, who said, about those he did not consider sensible, but would tolerate, nonetheless:

> Ourself will mingle with society,
>
> And play the humble host.

I am sure that Senator Walker would be perfectly capable of doing that. I have been given all sorts of other advice by Senator Walker on previous occasions. He has always told me that the squeaky wheel is the one that gets the grease—provided, of course, that the person speaking was the squeaky wheel and that I provided the grease.

Senator Walker: You have always been a greasy wheel and you are always irrelevant. Mr. Speaker, we are all here waiting for something to help us through our business. Senator Gigantès has said nothing yet that is relevant. I respectfully suggest that he take his seat and that he think over something he might say in the future that has some sense to it. But if he is going to continue in this way, I suggest that we have a motion to have him stopped.

Senator Olson: No—

[Senator Gigantès.]

Senator Gigantès: If, of course, one conforms to one's surroundings and behaves exactly as Senator Walker would have me behave—out of character—one becomes like this good Mr. Dimitrios Papavramides, who inhabits a part of Ontario where there are a lot of members of the Orange Lodge. In trying to please them he made himself utterly ridiculous.

I have met these Romans everywhere, but I have found that, when they get past the stage of trying to give advice, they are particularly nice. There was one in Korea whom I did not like at all. When I was wounded, and both he and I had our hands tied behind our backs, he would suck the pus out of my wound. Tex Kimball—I remember him well. He was racist, but he was a very nice man.

I also remember a Canadian Air Force officer who was another member of the Orange Lodge. He thought the French should not really exist—not in Canada. But when the girl to whom he was engaged lost her leg in the Blitz, he married her, nevertheless. He was a very fine man.

I remember a lady in India, Mrs. Shri Krishna, who was a Brahman. Of course, not being Indian, I was Untouchable, according to her religion. Nevertheless, she would pick up my small daughter, play with her, and afterwards submit herself to ceremonies of purification. She picked up my daughter as an act of courtesy and kindness, and for that I am grateful to her, despite her strange views.

Honourable senators, I am immodestly proud of having reached the stage where I can like people, even though they may think that I do not act as they think I should or as they do. That is part of being adopted. And the Canadian family has adopted me. I would rather be an adopted child of the Canadian family than a child of the blood of any other family. And I like Canadians, Senator Walker included—he is second to none in my affections. Senator Flynn is another one I like a great deal. We went on a trip together and I found him wonderful. If they take an occasional shot at me, well, I can only say that I have learned another British rule—one of the Queensberry rules—when they hit you in the mouth, you should hit them right back. Then afterwards, if they have the character of Senator Phillips, who has just walked out, everything is over and people can be friends. Thank you.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

The Senate adjourned during pleasure.

At 4.45 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Bertha Wilson, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Gover-

nor 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 Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Copyright Act and to amend other Acts in consequence thereof (*Bill C-60, Chapter 15, 1988*)

An Act to amend the Western Arctic (Inuvialuit) Claims Settlement Act (*Bill C-102, Chapter 16, 1988*)

An Act to promote the development and diversification of the economy of Western Canada, to establish the Department of Western Economic Diversification and to make consequential amendments to other Acts (*Bill C-113, Chapter 17, 1988*)

The House of Commons withdrew.

The Honourable the Deputy 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, June 9, 1988

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

Prayers.

EXCISE TAX ACT

EXCISE ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Finlay MacDonald, Deputy Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, June 9, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-SIXTH REPORT

Your Committee, to which was referred the Bill C-117, An Act to amend the Excise Tax Act and the Excise Act, has, in obedience to the Order of Reference of Thursday, 2nd June 1988, examined the said Bill and has agreed to report the same without amendment.

Respectfully submitted,

FINLAY MACDONALD
Deputy Chairman

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

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

[*Translation*]

CAPE BRETON DEVELOPMENT CORPORATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Fernand-E. Leblanc, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, June 9, 1988

The Standing Senate Committee on National Finance has the honour to present its

TWENTY-FOURTH REPORT

Your Committee, to which was referred Bill C-127, an Act to amend the Cape Breton Development Corporation Act, has, in obedience to the Order of Reference of Tuesday, May 31, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Royce Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, June 9, 1988

The Standing Senate Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTY-FIFTH REPORT

Your Committee has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Social Affairs, Science and Technology for the proposed expenses of the said Committee to examine Bill S-4, an Act to amend the Hazardous Products Act (tobacco and tobacco products), as authorized by the Senate on March 11, 1987. The said supplementary budget is as follows:

Transport and Communications	$10,500
Other Expenditures	1,300
	$11,800

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

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

[*English*]

CANADIAN INTERNATIONAL TRADE TRIBUNAL

ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE

NOTICE OF MOTION TO AUTHORIZE BANKING, TRADE AND COMMERCE COMMITTEE TO STUDY SUBJECT MATTER OF BILLS C-110 AND C-121

Hon. Finlay MacDonald: Honourable senators, in another attempt to demonstrate that hope springs eternal, I give notice that on Tuesday next, June 14, 1988, I will move:

> That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of Bill C-110, An Act to establish the Canadian International Trade Tribunal—

Senator Frith: It sounds more like an attempt to demonstrate that you are a slow learner!

Senator MacDonald:

> —and to amend or repeal other Acts in consequence thereof, and the subject-matter of the Bill C-121, An Act to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain Acts in consequence thereof, in advance of the said Bills coming before the Senate or any matters relating thereto.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, June 14, 1988, at 2 o'clock in the afternoon.

Motion agreed to.

[*Translation*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO CONTINUE STUDY OF CONSULTATION PAPER ON CHILD AND ELDERLY BENEFITS

Hon. Arthur Tremblay: Honourable senators, I give notice that on Wednesday next, June 15, I will move:

> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to continue the study undertaken in 1985-86-87 on the Consultation Paper on Child and Elderly Benefits, issued by the Department of National Health and Welfare, tabled in the Senate on February 5, 1985; and
>
> That the date for presenting its final report, which previously was December 22, 1987, now be extended to no later than March 31, 1989.

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): I have to inform the Senate that Senator Murray will not be with us today. I believe he is in Fredericton on public business.

Senator Perrault: I'm sure!

Senator Steuart: Dishing out goodies!

MOSCOW SUMMIT, 1988

CONGRATULATIONS TO SECRETARY OF STATE FOR EXTERNAL AFFAIRS ON APPRAISAL OF MEETING AND TO UNITED STATES AND SOVIET LEADERS

Hon. Heath Macquarrie: Honourable senators, would the genial deputy leader, who is very adept at language and an expert in communication, communicate—

Senator Doody: Are you talking about Senator Frith?

Senator Macquarrie: I am speaking of our deputy leader, although Senator Frith is not bad either. Would the deputy leader communicate to the Secretary of State for External Affairs—and I would not presume to speak on behalf of my colleagues here, so it must be my own—my feeling of appreciation for the excellent way in which he gave an appraisal of the summit meeting in Moscow, an event which has not yet been discussed in this place? Could he convey to him the view that it is very wise and expedient, hopeful and positive to congratulate the two leaders of the superpowers of the world, who, by an ill-advised and inadvertent act, could destroy the whole world? I believe they should be commended for spending days together, having reasonable dialogue.

I think we should not be afraid, whether we are right-wingers, as I am not, or left-wingers, as I am, to rejoice in the fact that they have in the Soviet Union the most positive and progressive member of the top brass in that country in my time—and that is a hell of a long time, as human beings exist. I, who am not known as a right-winger and was never a great enthusiast for Ronald Reagan, must say that he performed in the right way at the right time. Perhaps all of us may derive some benefit from the restrained wisdom of these two people. Our Secretary of State for External Affairs, in my judgment, conveyed that, praised that and spoke about it with the kind of judgment that a good Canadian statesman should.

If I am making too long a preamble to my question, I know it, I like it and I rarely indulge it. I am not one of those who ever rejoice when someone brings up points of order or precedents, because I think the Senate is at its best when it is pragmatic. The less we have of Bourinot and Sir Erskine May in this place of sedate, sober second thought, in my opinion, the better.

I recall the time, when I was more active in the national party caucus, when Robert Stanfield, our greatest leader and our leader at that time, was being accused by someone—I will not give his name because that would be a breach of caucus—of going along with Trudeau's so-called soft view towards the Soviet Union. Mr. Stanfield said, "Whatever you may think of Mr. Trudeau, or however you appraise his motives, there is no way that this party that I lead will be seen to be against détente." We now call it—we are more modern—*perestroika* and *glasnost*, but I think the same situation prevails. I cannot see how any Canadian who loves peace, his country and the serenity of the world could not but rejoice in that summit, despite those who say, "Oh, it is all propaganda and over-reaction." In the long run, is it not a great thing to have these two masters of these great states converse and dialogue?

Therefore, I ask in a word, in my brief way, if our deputy leader would convey that view to our Secretary of State for External Affairs.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I would be most pleased to!

INDIAN ACT

BILL TO AMEND—SECOND READING

Hon. Ethel Cochrane moved the second reading of Bill C-115, to amend the Indian Act (designated lands).

She said: Honourable senators, I rise today to speak in support of Bill C-115, to amend the Indian Act, also known as the Kamloops amendment.

As honourable senators know, this bill has received the support of all parties in the House of Commons. This bill has a special significance in that the Indian Act has been brought forward for amendment at the request of the Indian people. This is the first ever Indian-led change to the Indian Act. These amendments were initiated by one band, the Kamloops Band in British Columbia, in January of 1985. The band received direct support for its proposal from over 100 bands across the country.

● (1410)

In 1986 the General Assembly of the Assembly of First Nations also endorsed the Kamloops Band's proposal. The Chief of the Kamloops Band, Chief Manny Jules—a well-known personality, I might add—has travelled extensively throughout the country, explaining his proposal at various meetings. Indian people understood what he was proposing and supported him.

In May 1988 the Assembly of First Nations examined Bill C-115 and endorsed it, requesting only one minor change. That change has been incorporated in the bill I am presenting today, and I hope my honourable colleagues will now provide their support.

As has been stated on other occasions, so long as the Indian Act is with us, we should make the act work for Indian people. Whatever gains we make in that way will provide benefits.

[Senator Macquarrie.]

Honourable senators, the bill before us today has a two-fold objective: first, it will clarify the legal status of Indian land; second, it will establish the legal foundation for property taxation by band councils. On the first point, the bill replaces the term "surrender" with a new concept called "designation". Designation will allow bands to set land aside for leasing and for the purpose of economic development, without the land losing its reserve status.

As honourable senators know, land is the most vital and sacred concern of Indian people. Indian people must control their own lands and those lands must be legally disposed of so that maximum control and economic benefits are provided to Indian communities. Leasing to both Indians and non-Indians is one of the primary means by which Indian bands can benefit economically from their lands and create revenues that can be reinvested for further development of the community.

Some councils may decide not to use their land in this manner, and that is their choice. However, other bands do wish to use their land as a source of profit and employment for their community. We must respect this point of view and make it possible for them to do so. The great advantage to leasing arrangements is that the underlying Indian interest in the land is retained and the land keeps its reserve status. At the same time, the lease provides the legal basis for the economic use of the land.

The Indian Act does not allow bands to lease their land directly. The act states that the land must first be surrendered to the Crown, which is then authorized to enter into the lease on behalf of the band. This process is both slow and complicated. However, it has historical roots that touch on the basic nature of the relationship between the Crown, the Indian people and Indian lands.

In this amendment to the Indian Act, Indian leaders have not asked that the surrender process be changed or removed. That action may come in the future, but only after much consideration has been given to the consequences for the Indian-Crown relationship.

Within the present context of the surrender process, however, an extremely important distinction needs to be made between an absolute surrender of land for sale and a surrender for lease. At the moment, that difference is mentioned in only one line of the Indian Act and it is not clearly explained. That is a source of serious confusion that must be addressed.

The bill before you establishes that a surrender may take one of two forms: first, an absolute surrender for sale, which removes land completely of all Indian interests and takes it out of the reserve. That is extremely rare. The second form is a surrender for lease or for some other restricted purpose. In this case the land remains part of the reserve. This is an important distinction to make. Setting aside part of a reserve for leasing does not mean a release of the Indian interest in the land. As I mentioned earlier, in order to facilitate and strengthen the distinction between these two types of surrender, land surrendered for lease will be known as "designated land" and the

process of such non-absolute surrender will be termed "designation."

Other rights obtained through the Indian Act will continue to apply, such as voting rights in band elections or protection of cultural property. The power to govern the land through band bylaws is another extremely important point. At the moment it is not clear in the Indian Act if the word "reserve" includes surrendered land. It is therefore possible that, when land is surrendered for lease, it will cease to be defined as part of the reserve. That is totally unacceptable and denies Indian jurisdiction and control of Indian land. It also creates a very serious vacuum of local jurisdiction over leased Indian land. That situation must not continue.

One of the most important bylaw powers that bands require for local government and economic independence is their power to tax the use of land. This leads to the second purpose of these amendments, which is to establish clearly that band councils have the power to tax any interest or use of reserve lands in order to defray their costs as governments. Such a taxation power is an obvious element in all forms of modern government. As I said previously, some bands may wish not to use this power. However, it must be made available to those who want to exercise it.

Since 1951 section 83 of the Indian Act has provided a taxation power for band councils. It is possible, however, that the power applies only to Indians. As presently worded, it may not apply to non-Indian leaseholders. The amendments proposed in Bill C-115 will ensure that non-Indians are covered.

Section 83 of the Indian Act is also being modified in another aspect. Bands will no longer need to be declared to have reached an advanced stage of development before they may pass money bylaws. The enforcement powers that band councils require for their tax systems will be strengthened and taxation bylaws will have to include appeal procedures to ensure equity for taxpayers.

A general federal regulatory power is provided. Although no regulations are proposed at this time, the purpose of any future regulations would be to minimize ministerial discretion in respect of the exercise of band powers. If rules are necessary, they should be explicit and objective.

Certain sections of the Indian Act create exclusively Indian land holdings in reserves in which non-Indians cannot participate. The word "reserve" cannot include "designated land" for the purposes of these sections, since designated land is designed to include non-Indian participation.

● (1420)

These sections are enumerated in a new definition of "reserve". In this context, section 89 of the act creates a special consideration. Section 89 protects Indian real and personal property on a reserve from any form of seizure or mortgage. It is a mixed blessing for Indian people. On the one hand it protects their property, but on the other hand it prevents them from offering security for loans.

The question arises as to how the concept of designated land should apply to section 89; after all, the purpose of such land is to allow leasehold interests to enter the legal and economic mainstream while protecting the underlying Indian interest in the land. With this in mind, it is proposed to amend section 89 so that leasehold interests in designated land will be made mortgageable. This would mean that an Indian person holding a lease on designated land would be able, just as a non-Indian is, to use the land as security for a loan. There would be no risk to the ultimate reserve status of the land or any possible loss of the ultimate Indian interest. Only the lease would be at risk. Of course, such leasehold interests would also remain under band council jurisdiction. This change should be a major breakthrough for Indian economic use of and benefit from reserve land. In other words, individual Indians will, for the first time, be able to use leases of Indian lands as collateral for investment.

Proponents of amendment to the Indian Act usually suggest that we do away with it completely or that we amend every section, but in this case a limited change to the act has been proposed by Chief Jules, with the support of the Indian community at large.

I would remind honourable senators that last fall they received copies of an information booklet explaining the proposed amendments in detail, as did all provincial governments and major associations of municipalities. Every Indian band also received two separate mailings of the booklet.

Finally, I should like to draw to your attention the need for an amendment to correct a minor error in the bill as passed by the House of Commons. Clause 10 at line 31, page 6 of the bill, reads:

. . . regulations not consistent with this section

The bill should, in fact, read:

. . . regulations not inconsistent with this section

Honourable senators, this was merely a typographical error, and I shall be moving an amendment to clause 10 during clause-by-clause consideration of the bill in order to correct it. We will then have to send the bill back to the other place for their concurrence.

In conclusion, I wish to point out that this bill constitutes yet another indication of this government's commitment to deal effectively with matters of concern to our native people in Canada.

Some Hon. Senators: Hear, hear!

Hon. Len Marchand: Honourable senators, at the outset I would like to thank Senator Cochrane for the most useful explanation she gave relating to Bill C-115. I also want to indicate that I, personally, support these amendments and that the Liberal Party of Canada supports these amendments. Many of these amendments are quite welcome.

Movement from the use of the word "surrender" to the term "designated lands" is welcome. Indians have been unhappy with the word "surrender" for a long time now. In some ways it was not bad, but in other ways it was bad. In one way the band membership never did really lose control. In order to surrender land there had to be either a vote or votes by the

band in order to approve the surrender. From that point of view, the band and the band council did not lose control.

But there were other problems. Certainly, there was the perception problem. Imagine having to "surrender" your own land! Just the very thought of using the word "surrender" had Indians up in arms. There was also a real problem as to the status of the land once it was surrendered and leased. It was always the contention of Indians that the surrendered and leased reserve land was still reserve land, but there was some doubt concerning taxation. There was no doubt about the ability of a province to tax a leasehold interest on Indian lands, but there was some doubt as to the ability of the band government to levy taxes on its own land. That was unacceptable. The bill clarifies that and that is welcome.

Bill C-115 changes the language from "surrendered lands" to "designated lands". That is good. It also clarifies the unquestioned authority of a band government to tax leasehold interests on designated lands, and that is good.

Even though this bill makes some much needed amendments to the Indian Act for the benefit of bands that have large tracts of leased lands, I wish it had gone further on the question of taxation. I would, in particular, like to see provincial governments totally excluded from the right to levy any taxes on reserve lands.

The Government of British Columbia, most particularly, has not had a good record in the way it has taxed leasehold interests on Indian reserves in the past. It is generally accepted that, if a government levies taxes, it should provide to those paying the taxes something in the way of services. In the case of the Government of British Columbia, it has taxed substantial leasehold interests on the Kamloops Indian Reserve for many years without giving one penny back. The Kamloops Indian Band had to build roads, put in a water system and so forth from its own meagre resources on its subdivisions of leased lands, and that was grossly unfair to the Kamloops Indian Band.

I happened to glance through the publication circulated by the minister, which Senator Cochrane mentioned in her remarks. At page 4 of that publication there is mention of "relationships with other jurisdictions" and "provinces permitting taxation on Indian lands". The following statement appears:

> In British Columbia it is uniform practice to assess and tax the real property interests of non-Indians on Indian land. In Quebec and the Atlantic provinces such taxation is not prohibited, but it is relatively rare.

In the 1970s the prairie provinces and Ontario vacated the field of property taxation of non-Indians on Indian lands. I believe the Province of Saskatchewan and the Province of Ontario took the lead in that regard. That was a very welcome move, because in some cases substantial taxes had been collected without one penny being returned. That was totally unacceptable. In this regard, the Province of British Columbia has been an offender for a long period of time. It is not just the Kamloops Indian Band that has been affected; other bands have been as well, such as the Sechelt Band, the Musqueam Band and the Capilano Band, in fact, any band in the province of British Columbia that has leasehold land for development purposes.

Honourable senators, I do not wish to prolong consideration of this bill at this stage. However, I would like to see it referred to the appropriate committee so that we can have it explained further by the minister or his officials. I note that Senator Cochrane wishes to move an amendment. Perhaps we could do that sometime next week. I will certainly cooperate in moving it along quickly, because I know that a number of bands—especially those in British Columbia with leasehold development property—are anxious that these changes be made as quickly as possible.

• (1430)

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. Ethel Cochrane: Honourable senators, I believe the proper procedure to follow is to send this bill to the Standing Senate Committee on Legal and Constitutional Affairs. I have been in touch with Senator Neiman and she has agreed to that, and acknowledges the urgency of the matter.

I move that Bill C-115 be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, perhaps we should just note for the record that "Indian and Inuit affairs" is one of the subjects assigned to the mandate of the committee chaired by Senator Tremblay. Of course, with leave or unanimous consent, we can send it to any committee we wish.

After listening to the explanations of Senator Cochrane and Senator Marchand, it seems clear to me that the pith and substance of the bill is legal. It deals with surrender, leaseholds, mortgaging leaseholds and taxing leaseholds. For that reason I think we should give unanimous consent to having it go to the committee referred to.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to associate myself with everything that Senator Frith has said, with the exception of the word "pith".

Senator Frith: There is nothing wrong with the word, as long as you pronounce it carefully.

On motion of Senator Cochrane, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

PATENT ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Bonnell, seconded by the Honourable Senator Petten, for the second reading of the Bill S-15, An Act to amend the Patent Act.—(*Honourable Senator Cogger*).

Hon. Michel Cogger: Honourable senators, lest I be thought of as trying to delay unduly the progress of this important matter, I have decided to interrupt abruptly my extensive research on this subject and, after pithy questions by Senator Frith, Senator Hicks and Senator Bonnell, indeed, I have decided to try to address this important subject. Senators will allow me to speak briefly, because my researchers have not completed the remarks I wished to convey to the Senate, but I will do my best.

Senator Doody: That sounds like a $30,000 project.

Senator Frith: You are speaking half prepared.

[*Translation*]

Senator Cogger: Honourable senators, those of us who are graduates of Senator Bonnell's school of hard knocks are celebrating a first anniversary this year. I am thinking of my colleagues, Senators David and Buckwold, and Senator Thériault, who is not with us today. A year ago around this time, we were somewhere between Charlottetown and Regina, considering Bill C-22.

As Senator Bonnell was wont to say to whomever cared to listen, the committee went on the road because if Mohammed wouldn't go to the mountain, the mountain would go to Mohammed. After travelling all summer and examining the bill, the committee produced its report. Finally, Bill C-22 was adopted at the end of last fall.

Senator Bonnell, however, refused to give up. We all know the senator did not entirely agree with Bill C-22, with or without amendments, and so now Senator Bonnell moves that we adopt Bill S-15. This bill is—I was going to say his revenge, but I take that back!—an attempt to do what he failed to accomplish through C-22.

Honourable senators, I submit, with respect, that Bill S-15 is as premature as Bill C-22 was long in coming. Bill C-22 had been eagerly awaited by Canadian researchers, by the drug companies and by many health agencies in the medical world. Its passage was delayed because of all the political manoeuvring we were exposed to a year ago at this time.

Bill C-22, adopted in the fall of 1987, provided for the establishment of the Drug Prices Review Board and set up special mechanisms which the government, in its wisdom, had designed to protect the consumer. After Bill C-22 saw the light of day at the end of 1987, Senator Bonnell, who deserves first prize for constant perseverance, was on the barricades again.

[*English*]

Senator Buckwold: And intelligence.

Senator Cogger: I do not question that, sir, but judgment is a different story, Senator Buckwold.

[*Translation*]

Senator Bonnell came back with a bill whose drastic effects would include virtually depriving the Drug Prices Review Board, chaired by Dr. Eastman, of its powers—

[*English*]

Senator Haidasz: They have not done anything else.

[*Translation*]

Senator Cogger: Excuse me, Senator Haidasz, if you will allow me, you can speak later. So I was saying that he is trying to strip it of its powers.

Dr. Eastman has barely begun his work; he has enormous powers that the government has given him—

[*English*]

Senator Buckwold: Seven months late!

[*Translation*]

Senator Cogger: He has a heavy responsibility and before he even has the chance to exercise it properly, before he has a few months of experience, Senator Bonnell wants to put him in a straitjacket. He wants to impose such strict, inflexible, untenable rules on him that they would end up taking the Prices Review Board out of Bill C-22. This board is one of the most important safeguards for consumers.

On our long journey across the country, we heard all the consumers and organizations that wanted to share their concerns with us. Senator Bonnell will agree with me that one of the things we kept on hearing was, "For heaven's sake, give the board chaired by Dr. Eastman all the powers for adequate protection."

Honourable senators, I submit to you in my humble opinion that the passage of Bill C-22 was unduly delayed for nearly eight months and this was, I think, a mistake. Honourable senators, I also submit to you that to go through the same debate on Bill S-15 now or shortly after the adoption of C-22 would compound the original mistake and undo the long effort spent in the first debate.

● (1440)

[*English*]

I must apologize, honourable senators, to Senator Turner. When I mentioned Senator Bonnell's committee's pilgrimage of last year, I omitted to mention that my good friend and colleague, Senator Turner, survived it all with good grace and, with us, listened carefully to everybody.

Senator Turner: What about the drug prices?

Senator Cogger: Let me come to the drug prices. It is interesting that the honourable senator should mention them. It is also interesting to note that one of the points in support of Bill S-15, as I understand it, is a study that was conducted by two pharmacists at the request, I believe, of Senator Haidasz. Honourable senators, I have read that study; I have looked at its conclusions and I am not impressed. I do not know anything about the sampling that was done, nor do I know anything about the rigorous scientific methodology used to look at such important matters, but, personally, and with all due respect to

the people who conducted the study, I would sooner rely on another study recently conducted by the firm of Peat Marwick. Honourable senators, I do not have to describe that firm—everybody knows it—and I do not think anyone would question its methodology.

Senator Buckwold: That study was paid for by whom?

Senator Haidasz: Who paid for the study?

Senator Cogger: And that study says—

Senator Haidasz: How much did they get paid?

Senator Cogger: Isn't it terrible that they got paid for their study? They are, sir, professional consultants, and I wouldn't mind relying on them.

Senator Steuart: I wouldn't mind being one of them!

Senator Cogger: This is a study conducted for the first six months after the coming into force of Bill C-22, and I quote:

[*Translation*]

> The results of the study prove that 83 per cent of drug prices have not increased.

Senator Guay: The other 17 per cent show an outrageous increase!

Senator Cogger: Senator Guay, please. It goes on:

> In some cases they are lower. Also, the prices of 96.3 per cent of the 1,235 drugs considered have gone up less or just as much as the Consumer Price Index . . .

Ninety-six point three per cent—

[*English*]

So only 3.7 per cent of prices increased at a rate higher than that of the consumer price index while 96 per cent increased at a rate lower or at the same level.

Senator Buckwold: Do you really believe that, if I may ask a question?

Senator Cogger: You ask Peat Marwick, sir; this is their published report. Do you believe Senator Haidasz's study? I don't.

Senator Haidasz: It was verified by Statistics Canada!

Senator Cogger: I suggest to honourable senators that, after long and arduous effort last year, after a long pilgrimage—it was a long, hot summer, was it not, senator?

Senator Bonnell: It was so; we worked hard.

Senator Cogger: After that effort, we finally put together Bill C-22, which put into place the findings of Dr. Eastman's commission. I say to honourable senators that Dr. Eastman had the powers he had only because the Senate and the House of Commons gave them to him. I say to honourable senators that, under the law, there is a four-year statutory review of this legislation.

[*Translation*]

Four years from now, the government will review the impact of Bill C-22.

[*English*]

Senator Frith: And we intend to do it!

Senator Haidasz: Poor people can't wait for you!

Senator Cogger: Let us conduct that review in four years. Let us not bring in a premature bill, the consequences of which we do not know.

I want to say two things to those who care to listen. Senator Haidasz attended the National Finance Committee when the president of the Medical Research Council appeared before it. Is it not interesting to note that in talking about research in general he said that we did not have to worry too much about medical and pharmaceutical research because Bill C-22 is in place? He said that, as a result of Bill C-22, there is now great cooperation between the universities and the industry. Senator Haidasz did not like that, but that is what was said in committee. I invite any senator who did not attend that meeting to verify that.

Secondly, anyone who cares to read the newspapers will know that tomorrow the Prime Minister will be in the company of representatives of the Merck-Frosst Company in Montreal—yes, in Montreal, but it has also taken place in other parts of the country—inaugurating a $30 million research facility, the commitment to which was a direct result of Bill C-22.

Some Hon. Senators: Hear, hear!

Senator Cogger: I say to honourable senators that, although some of them do not like it, Bill C-22 is a fact of life—God knows we worked hard enough to bring it together. I say this to honourable senators: Let us not destroy it by an ill-conceived, premature effort to throw a monkey wrench into the works. There are safeguards built into this legislation. Let us live with Bill C-22. Senators opposite will have their turn in four years—or the government will—to review it. For the time being, let us leave well enough alone, and perhaps send Bill S-15 back to the library, where it belongs.

Hon. John B. Stewart: Honourable senators, I wonder if Senator Cogger would deal with a question. It is really a very simple one. There seems to be a great deal of dispute as to what has actually happened with regard to drug prices. One report says one thing while another report says another. The problem with consultants is famous.

Senator Barootes: It is like the problem with university professors.

Senator Stewart: Yes, and medical doctors—this problem crops up in certain professions.

The problem with consultants, it is said, is that they like to give their employers the kind of response their employers are seeking. Why do we not make it clear that the bill will go to committee where an objective inquiry will be conducted? It is the right of the Senate to reject the bill at third reading, if it is the finding of the committee that there are no grounds for its passage. In that way Senator Cogger can demonstrate to the Senate and to the country at large how effective Bill C-22 is. The regime of that bill will not be disturbed at all by the

adducing of evidence before the Senate committee. Would Senator Cogger be prepared to put his position to that test?

Senator Cogger: Honourable senators, Senator Stewart knows full well that, if it is the will of the majority to create another committee and do a study, it is their right.

I cannot disagree with you, Senator Stewart. However, I will ask my leadership to beg off the committee, having suffered enough during the last time round.

By the way, thank you for giving me an opportunity to speak again. I had forgotten an argument. I forgot to say how premature the whole exercise is. It is interesting to note that the Commissioner of Patents is currently on a cross-Canada tour. Yesterday he was in Montreal; he will be in Regina on June 21; he will be in Calgary on June 22; he will be in Vancouver on June 23, et cetera.

The Commissioner of Patents is inviting representations from groups such as research and development associations, Canadian universities and colleges and technical associations. Why should we at this time purport to thwart his efforts or preempt his judgments by bringing in an unduly punitive system, under Bill S-15, which would single us out in the industrialized world? Let the poor gentleman conduct his work. Let Dr. Eastman get some experience under his belt before you purport to preempt his judgment.

Hon. Sidney L. Buckwold: Honourable senators, every action demands a reaction. Obviously, the statements that have been presented to us by our honourable colleague demand a response, because he has brought back rather pleasant memories of a difficult summer, and one which I am sure will eventually rebound to the embarrassment of a government that brought in, as I have said, one of the worst pieces of legislation that have gone through this chamber and this Parliament in a long time.

An Hon. Senator: A sell-out to the pharmaceuticals!

Senator Perrault: They did not need the ten years, and they admitted it.

Hon. Efstathios William Barootes: Are you speaking on the adjournment?

Senator Buckwold: No, I am speaking on the debate. Is there some question in that regard?

Senator Barootes: I should like to take the adjournment on Bill S-15.

Senator Stewart: He is acting now like a consultant.

Senator Frith: Will you Saskatchewan people try to get along?

Senator Buckwold: I gather that what I am about to say is a bitter pill for the opposition to swallow, if I can carry on the metaphor, and pills are getting more and more expensive, as are consultants.

Senator Perrault: They want us to take tranquilizers.

Senator Buckwold: I would like to tell you a story I heard recently about consultants. A tomcat wandered the neighbourhood to the point where he was becoming a problem. His owners had him neutered. When he returned home from the veterinarian, he gathered with his friends, who said, "Let's go out." The tomcat said, "No; now I am a consultant." I am glad that reference was made to consultants, and I am sure that those who want to pay for a consultant will get the kinds of answer they are looking for, if the price is right.

Honourable senators, let us not forget that, after going through the whole exercise on Bill C-22, some of us, emotionally and deeply, felt that a good policy, one which had been carried on in Canada and to the envy of almost the entire world, had been destroyed in the government's quest for free trade. Let us not get into a long argument, but anyone who knows the scene knows that a so-called level playing field was demanded by our friends in Washington. Then we ended up with Bill C-22, essentially eliminating competition among generic drugs.

In the end, what did this Senate do? We offered three amendments. We did not change the philosophy. We wanted the bill to work. Our first amendment was to create an effective price-control board, the so-called Drug Prices Review Board. The witnesses we heard from told us time and time again that the powers of the board, which are still there, were not sufficient to deal with the problem of rising prescription drug prices. Anyone with any business sense knew that that would happen very quickly. The Senate said, "Please put a little teeth into this bill." That was ignored. We did not change the philosophy of the bill; we just said, "Give it a little strength."

The second amendment would have put certain regulations for commitments for research into the legislation. We were worried that the so-called billion dollars that was going to be spent might be spent now and would gradually disappear. Although I am pleased to hear that a $30 million investment is being made in the province of Quebec in the pharmaceutical industry, some of us might believe that that is being announced now for political reasons; some of us might believe that that investment would have been made in any case. However, the Senate has said that there should be an assurance that the promises of the drug companies for future commitments for research are fulfilled.

Our third amendment said that we should not eliminate prescription drugs of a generic nature that came on the market after this bill was first tabled in June of 1986.

Those were the three and only things we asked for. We listened to Harvie Andre express, in absolute dismay, that we were ruining his bill, and that the Senate should "literally" be blown up, because we were trying to put into his bill—a bill we did not support philosophically—some safeguards that would stop the kind of bill that is being presented to us today. In other words, we had fears that there would be an explosion of prescription drug prices.

I would say this to my dear friend, Senator Cogger: I hope your health is so good that you do not have to buy prescription drugs, because you will see what has happened. Those of us

who sometimes have to buy prescription drugs and who have bought the same drug over a period of time—and I happen to be one—have watched the prices go up. I have to say that you too would be embarrassed by what has happened.

The Drug Prices Review Board does not have any power. It has had several months to become established and it is still not operating. Yes, the Commissioner of Patents is travelling across the country, but he is not discussing drug prices. From the brief excerpts that were given to us by Senator Cogger, and from what I have read, he is for the most part discussing the question of research in universities.

I suggest that the Senate—at least on this side—has done the best it could to preclude the very problems we face now. We anticipated them. They are here and they are real.

Senator Bonnell's motion is one that may give the kind of impetus to that great protector, the Drug Prices Review Board, to do the job it is not yet doing because it is not yet established. Even though this may be an embarrassment to the government, I hope those on the other side will recognize the importance to the people of Canada of the exploding cost of health care because of drug prices and that they will support the motion that has been so ably put by our distinguished colleague, Senator Bonnell.

Hon. Joseph-Philippe Guay: Honourable senators, I should like to ask Senator Cogger a question. He seems to be quite familiar with the study carried out by Peat Marwick. Can he give us the dates when the study began and when it ended? Would it be possible to obtain a copy of the study?

● (1500)

Senator Cogger: All I was looking at was a press release—a summary of the study. However, I will certainly get the original for you and be pleased to offer it to you. It covers a six-month period, and will shortly cover May 1 or June 1.

Senator Guay: When you get that information for me, will you also let me know who called for and is paying for the study?

Senator Cogger: The study was conducted at the request of the Pharmaceutical Manufacturers' Association, and they paid for it.

Senator Buckwold: The Pharmaceutical Manufacturers' Association.

Hon. Stanley Haidasz: Honourable senators, as I have already spoken on Bill S-15, I cannot make a speech, but I take this opportunity to ask Senator Cogger two questions.

First, can he expound on his answer to Senator Guay? Was this study by Peat Marwick done for PMAC, the Pharmaceutical Manufacturers' Association of Canada, or for certain pharmaceutical companies?

Senator Cogger: I thought I just answered that; it was done for PMAC.

Senator Haidasz: I am glad to hear that the Prime Minister will go to Montreal tomorrow to open some kind of facility at Merck.

[Senator Buckwold.]

In view of the fact that the federal government has been doling out millions and millions of dollars to almost everyone over the past few months—perhaps because a federal election campaign will take place later this year—I would ask Senator Cogger whether the Prime Minister will also announce tomorrow that certain moneys are being set aside for the 20 per cent of the Canadian population not insured in any way for prescription drugs. Could he say whether that is so? If the Prime Minister will not do anything along that line, will he ask the Prime Minister to do so?

Senator Frith: Sure, he will!

Senator Cogger: Senator Haidasz knows full well that I cannot answer for the Prime Minister. Had I known it would lead to questions like that, I would not have departed from my research. However, as to Senator Guay's question, I will provide the study. Concerning the other line of questioning, I find it abhorrent that in a chamber such as this a shadow would be cast over the reputation of a firm—be it Peat Marwick or any other—on the basis that it was paid. The world is full of consultants—

An Hon. Senator: And lawyers!

Senator Cogger: —and I do not think it is proper to suggest that, because they sell their services and conduct research, the result thereof is less than professional, less than correct and less than accurate merely because they hire their services out.

Senator Stewart: I have a brief question.

Does Senator Cogger find it strange in any way that the result of a study, done on the commission of the pharmaceutical association during a period prescribed by the association, reveals precisely the result that the association itself would find in its interest to have revealed? You prescribe the period and perform exactly as you—

Senator Perrault: A happy coincidence!

Senator Stewart: —want the result to show. Of course, the consultants produce a reliable report, which shows that they have taken an accurate picture of what you set out to perform. You are a lawyer; does that surprise you?

Senator Cogger: Again, it goes back to the same kind of affirmation I just made. Why does the senator presume the kind of results that he says? Does he know that, or is he just throwing out something that he assumes? You do not know that, senator. I suggest that you do not know that.

Senator Stewart: No—

Senator Doody: Of course he knows it!

Senator Stewart: —let us assume together that the results are perfectly accurate.

Senator Cogger: Let's not assume anything!

Senator Stewart: All right. Let us say that we accept the results as being perfectly accurate. Would it be surprising that the results would be precisely what the pharmaceutical company intended them to be—

Senator Perrault: A happy coincidence!

Senator Stewart: —since they were recording the actions of the pharmaceuticals during the period in which they had themselves selected to be surveyed? If they wanted a revealing survey, why was the survey not made, for example, for the six-month period to which the senator refers, plus the six previous months, or even the previous year?

Senator Cogger: I do not think I have to answer that; I do not know the answer to that. It is an old technique that is well known: If you do not like an Angus Reid poll, you question the professionalism or the bias of Angus Reid.

Senator Stewart: I am not questioning their professionalism!

Senator Barootes: Honourable senators, I rise to do three things. First, I apologize to my friend, Senator Buckwold, for interrupting his presentation. I thought he was only asking a question and was moving the adjournment. I defer and apologize for that inappropriate action on my part.

Senator Perrault: Don't do it again!

Senator Barootes: The second point is that the consultant in whose research I believe has to be the professional versus the corner drugstore man at Parkdale—

An Hon. Senator: Shame!

An Hon. Senator: Take it back!

Senator Barootes: —who also has a vested interest.

Third, I would like to move the adjournment of this debate.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Barootes, seconded by the Honourable Senator Doyle, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we propose to support this motion for adjournment, but I think Senator Cogger and Senator Doody will testify that they will not be taken by surprise when I say that we would like to have this question put, and have wanted it put for some time. Therefore, we will be asking that the question be put next week, and we will be opposing—

Senator Doody: The guillotine!

Senator Frith: Yes, precisely.

Senator Doody: Free speech!

An Hon. Senator: Closure, no free speech!

Senator Frith: We will certainly give, and have given, plenty of opportunity for free speech.

The debate on this bill has been adjourned for quite some time. There was plenty of opportunity for senators to speak, if they had wanted to. It is free filibustering that we are meaning to close off, not free speech.

I want to make it clear—so that no one will be surprised—that, if further adjournments are sought next week that prevent the question being put, we will be opposing such adjournments.

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

Hon. Senators: Agreed.

On motion of Senator Barootes, debate adjourned.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION

MOTION TO AUTHORIZE FOREIGN AFFAIRS COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-130—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C.:
>
> That the Standing Senate Committee on Foreign Affairs be authorized to examine the subject-matter of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America, in advance of the said Bill coming before the Senate or any matter relating thereto.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I yield the floor to Senator Doyle.

Hon. Richard J. Doyle: Honourable senators, the Leader of the Opposition, in his remarks to the Senate this week, drew our attention to CTV's "Question Period" program televised on May 28 of this year. I am sure that many senators listened to the lucid, informative, might I say subdued, dialogue on free trade that took place between Senator Frith and Mr. John Crosbie.

Senator Frith: Where did you get those adjectives to describe it?

• (1510)

Senator Doyle: Still, I do not think that even Senator Frith would accuse me of being characteristically obtuse if I admitted to coming away from the program somewhat confused about which remarks I had heard were intended to deal with the subject matter of the Free Trade Agreement and which were limited to the legislation to implement the celebrated treaty. I agree with Senator MacEachen that the agreement and Bill C-130 are separate things, just as a vase and water are separate things, though the tulip might be forgiven for thinking that they serve a single purpose, and either one without the other would not help at all.

Senator Frith: Mr. Crosbie was the one who said they were the same, not I.

Senator Doyle: Surely our stars of television were agitated about both subject matter and legislative process, and the concern of their audience was with how the two would come together in law.

We are indebted to the Leader of the Opposition in the Senate for his report on the work done over these past seven months by the Standing Senate Committee on Foreign Affairs,

which, in 34 meetings, studied the treaty that will enhance trade between Canada and the United States. Also, we are impressed with the outline of the work to be done—even, perhaps, accelerated—in the weeks ahead.

However, it is difficult to share Senator MacEachen's concern that "it might be a harmful distraction" for the committee to "interrupt" its present efforts with study of the means proposed by the government to turn intention into action. We are told to go on examining the proposition without reference to, or without even thinking about, how we are to make use of it.

Honourable senators will recall that the Standing Senate Committee on Legal and Constitutional Affairs was directed last year to deal with two bills having to do with refugees. We were not permitted to deal with those bills simultaneously, because one of them had not yet been dealt with in the other place. The job was eventually done—with the bills being handled concurrently, as judges say when they wish to be particularly harsh with criminals. But our witnesses were sometimes confused by this bizarre treatment and so were committee members. Sometimes it was necessary to call witnesses back for a second appearance, because we could not hear them on Bill C-55 while Bill C-84 was on the table. Time was wasted while we did what we were told.

The situations are not necessarily analogous, but separating subject matter from legislative process at this time could produce similar effects, confusions and delays.

I agree with Senator MacEachen that the work of the Foreign Affairs Committee so far is "money in the bank"; that the committee has gotten "a good head start"; that "it is very much involved in its work and will continue to maintain the momentum". What I cannot believe is that the momentum would be slowed or the work flawed by adding now the dimension of the bill that will enable us to honour the treaty.

The fact is that Canadians are now examining the two things together. They will continue to do so, no matter what the Senate does.

Yesterday the Speaker in the other place ruled that Bill C-130 is admissible in its present form. That is one hurdle that concerned my honourable friend. However, he went on to say: "We have absolutely no idea what the progress will be of the bill through the House of Commons." Would it not be fair to say that those folks in the other place will have absolutely no idea of what the progress will be of the bill through the Senate so long as we leave Senator Murray's motion sleeping on the order paper until the end of July or into August, or whenever the spirit moves us—all the while ignoring debates that engage the country and putting out of our minds skirmishes to grasp legislative turf, such as we have recently seen in my own province of Ontario.

These are not easy times to be from Ontario. Only a couple of weeks ago we were under the lash of the western premiers for our unspeakable prosperity and our unwillingness to share the wealth with provinces too long regarded as shabby consumers of made-in-Ontario widgets. The glass through which we are now seen so darkly is held by those in Ontario's government who have looked upon the move toward freer trade and seen no good in it. For weeks on end Ontario's legislators heard in committee every witness willing to throw a hat over the agreement and have done with its potential for growth and better times across the country. That government, and the NDP—its old ally in power, need I remind you—fuss and fume at the prospect of a vast extension of the kind of agreement that provided the Midas touch to the automobile industry; an extension that would perhaps allow the good times to roll beyond Ontario's borders. We watch them now as they attack the legislation as an invasion of provincial rights.

Honourable senators, it should be encouraging to us that the Premier of Ontario, for the most part, rests his case against the agreement upon a single situation. That situation, in truth, has its roots not in bilateral trade but in GATT's regulation of multilateral trade, which we all acknowledge is Good—with a capital "G".

There is no one in this chamber, I am sure, who is not sensitive to the nature of the changes to the wine industry that, gradually but eventually, will be necessary if it is to survive competitively. But long before the U.S.-Canadian talks began, the risks of Ontario protectionism were clearly seen; protectionism not only from foreign imports but from out-of-province domestic production. Whether or not freer trade between Canada and the United States is achieved, the GATT action will not go away. Any move to quash it will leave Canada open to retaliation, which could have an incalculable effect in other economic sectors.

Ontario's premier is aware of this. He is aware, too, that the agreement maintains and improves the Auto Pact; that it allows for the retention of regional subsidies; that it maintains agricultural subsidies; protects cultural industries; controls foreign investment and that it is served by a dispute-settlement mechanism.

Enjoying the country's best level of employment—achieved largely under federal job initiatives—the Premier of Ontario is, perhaps, not as concerned as are other provincial leaders with the prospects of higher employment under the pact. But he is not the kind of man that we would expect to be deaf to the advice of such organizations as the Canadian Cattlemen's Association, the Consumers' Association of Canada, the Motor Vehicles Manufacturers Association, the Canadian Association of Broadcasters, the Canadian Federation of Independent Business and the Grocery Products Manufacturers of Canada. Will he not balance what doubts he hears from Robert White of the Canadian Auto Workers Union against the clear case in favour of the agreement made by the likes of Donald Macdonald, Peter Lougheed and his friend, Robert Bourassa of Quebec?

● (1520)

What are we to make of the man, as he is seen by the media? We read in the *Toronto Star* recently:

> The Canada-U.S. free trade deal is dead if it depends on Ontario's approval says Ontario's premier. If a powerful

> U.S. Senate committee has given Ontario the power to derail the deal, the province will do so, he told reporters yesterday.

The same day we read in the *Ottawa Citizen* that the premier:

> —does not want to be known as the leader who destroyed an historic deal, supported by all the other provinces, simply to protect a small domestic monopoly. As a result, he has suggested he would not challenge the pact in court if he could not enlist some other provinces to support his case . . . Now, however, the U.S. Senate has given Peterson the unwanted option of being able to torpedo the deal simply by refusing to give an assurance of compliance. Canada's future may well depend on the Premier's ability to resist the reactionary forces of parochial politics.

And again, that same day, we read Jeffrey Simpson in the *Globe and Mail*:

> As things stand, Ontario can count only on Prince Edward Island, an ally with a heart larger than its means. The Opposition of the Ontario Government (public opinion is something altogether different) to an initiative sought by eight provinces and the federal government does not bode well for national harmony. Ever heard of the Ontario bogeyman, the central Canadian conspiracy, the Upper Canadian capitalists? If not, tune in shortly.

And there, honourable senators, is where things stand—or wobble or waver—in the province which is my home, and the city where I was born. On one horn of the dilemma, the possibility of refusal to abide by Bill C-130 and thus save the grog shops, or, on the other horn, a decision to walk away with dignity from disruption of a truly national pursuit of a trading accommodation and law that would permit this country to compete and prosper as other countries already do in market spheres of wide scope and vast potential.

I cannot believe that Mr. David Peterson would be offended to hear words on free trade spoken in this chamber more than a hundred years ago by the great Liberal reformer, the distinguished senator from Toronto, the Honourable George Brown:

> Treaties of the comprehensive character of that proposed with the United States ought not to be—cannot be—adjusted by ounce scales. By the removal of all artificial barriers in the way of fair exchange of the products of industry, both parties must benefit. No man sells unless he benefits by doing so and no one buys unless he sees advantage to it.

But some honourable senators—no word of partisanship on their lips—may still ask if there are not anomalies in this agreement. Are there flaws in the legislation that they can point out to the doubters in the government of Ontario?

The best way to answer the questions is to get on with the job, all of the job, and try to have our work done within the framework and time the treaty sets out. It is difficult to suppose how we might manage that without allowing the Foreign Affairs Committee to deal with pact and process as they now exist and as they are now perceived by committee members and by the people we are supposed to represent in this chamber and its precincts—without letting the hand fit the glove.

Can we not, in this most important undertaking, demonstrate what the papers call "Senate activism" by supporting the government leader's case for the common sense of pre-study of Bill C-130?

Some Hon. Senators: Hear, hear!

Hon. Raymond J. Perrault: Honourable senators, I have listened with wonderment and amazement. We have a resolution before us with respect to a possible pre-study of the Free Trade Agreement made by the Prime Minister with the United States. Instead of addressing that agreement, the honourable senator has taken the opportunity to assault the Province of Ontario, to attack the Premier of Ontario and to attack the Government of Ontario. This is the most important economic arrangement ever made in the history of Canada, and if the premiers of this country do not stand up and point out those sections of the agreement that cause them some concern they are not fulfilling their mandate to their electorate.

Senator Buckwold: Right!

Senator Steuart: Right on!

Senator Perrault: Mr. Peterson is fully justified in taking the position he has taken. He has a number of concerns, as do we all. Let me use the Province of British Columbia as an example. The other day the B.C. Federation of Agriculture came to Ottawa. They say that the Okanagan fruit industry and wine industry will be devastated. The B.C. produce industry will be devastated, the dairy industry will be devastated, and the ultimate end of the agricultural sector of British Columbia is that it will become a sufferer on a great scale.

Are we to remain supine and silent while this process is continuing? We are not prepared to do that, and we are not prepared to stand here and justify whether or not we should be in support of a pre-study. The attitude of the government toward free trade is utterly unbelievable. John Crosbie has said to the people of this country, "We will not allow any changes in the Free Trade Agreement. We won't allow any changes in the Meech Lake agreement." The last time we heard that kind of talk was in the Reichstag of 1930 under "Uncle Adolf". We are not going to say "Achtung!" to this government. We are not going to give assent to everything this government wants.

At one time the honourable senators on the other side posed as custodians of human rights and freedoms. You talked in terms of the sacred right to have opposition, to stand up and question. Now your ministers are saying that we must pass the Free Trade Agreement and the Meech Lake Accord and must not affect their delicate mechanisms. They talk, almost obscenely, in terms of the gossamer fabric of the Meech Lake Accord, which must not be touched. I know the consciences of some of the opposition senators in this house are offended by this kind of lingo. I know you better. Are you going to accept this kind of dictum from your political masters in the cabinet?

You tell us that it is very important that we do a pre-study. Of what importance is a pre-study in Canada today if the

government insists that the arrangement is not going to be changed in any manner? Does it matter whether we study the agreement now or six months from now, when your Mr. Crosbie is saying, "It won't be changed, regardless of what the opposition says. We are going to ram it through."? I have not seen one measure that has come before Parliament emerge in perfection. I have never seen one tax bill that did not have anomalies and did not require changes.

This deal raises some questions. Why did you send your cabinet colleagues scurrying down to Washington the other day to try to keep those congressmen and senators in line, if you too are not concerned about some of the possible imperfections?

• (1530)

Don't give us the party line. Don't give us a portion of that $30 million budget of taxpayers' funds to propagandize this nation into apathy with respect to the bill.

We are concerned about a government which is increasingly getting out of touch with the people. We have a disaster in the prairie provinces. There is, economically, an unmitigated disaster in Alberta, Saskatchewan and Manitoba. The drought conditions are horrible. Farmers are going bankrupt, and yet we choose, today, to proclaim "Christmas Day" in the constituency of Quebec which the government wants to win by handing out all sorts of goodies in every direction, instead of addressing the problems of the suffering people of this country who are not all enjoying the kind of prosperity that may exist in certain sections of the country.

Honourable senators, I am getting sick and tired of this tired, old party line that we cannot change anything. We should not have to come to this house and justify why we are not supporting a pre-study. Pre-study is not enshrined in parliamentary rules; it is a custom which was adopted several years ago in order to assist with respect to certain legislation. It is now out of hand in some ways, and we see in this matter an effort, inspired by the political leadership and cabinet, to get this legislation through as quickly as possible, without any objections or changes.

Some Hon. Senators: Hear, hear!

Hon. Efstathios William Barootes: Would the honourable senator entertain a question?

Senator Perrault: Certainly, with this kind of propaganda I will take questions.

Senator Barootes: I am sure the honourable senator will recall the year 1966 when he and Senator Molgat, as heads of the Liberal parties of their respective provinces, met with Premier Thatcher in Saskatoon along with the then Liberal leader of Alberta and issued a statement on the first day of the Conference of Liberal Leaders of Western Canada. The four issued a joint statement that they were in unanimous support of free trade with the United States, of more opportunities for foreign investment in Canada, and of a complete rejection of future policies of economic nationalism.

Senator Perrault: I would love to answer that. Yes, I support free trade, but I do not support a trade agreement—

Some Hon. Senators: Hear, hear!

Senator Frith: Hold your applause.

Senator Perrault: —a jingoistic trade deal, which keeps, in effect, a lumber impost against the lumber industry of British Columbia, which retains the impost against red cedar shingles from British Columbia, and which gives half of the country away in other directions. No, I am not against free trade.

I want to remind the honourable senator that the leader to whom he has given his loyalty campaigned against free trade in the last federal election. He said it was a concept that had no future in Canada and that it posed all sorts of dangers. He was elected on the platform of opposing free trade. Can the honourable senator tell me what caused this great conversion? Was it something like St. Paul on the road to Damascus?

Senator Frith: It was "St. Ronald".

Senator Perrault: Did he see a great light in the sky? St. Paul went blind for a while after he converted, and I am afraid the Prime Minister has gone blind.

During the election campaign the Prime Minister also said, "This little prime minister is going to give new meaning to the word 'patronage' in the next Parliament." Well, he has done that! He has kept that promise! He also campaigned on the basis of opposing free trade and he was supported in that endeavour by Mr. Bourassa of the province of Quebec.

I believe in free trade, but I do not believe in a trade arrangement, worked out between two political leaders, that sells out sections of this country.

Senator Doyle: Will the honourable senator take another question?

Senator Perrault: Why not?

Senator Doyle: Having just been advised that the honourable senator is both sick and tired, I hesitate to ask a question. However, may I, despite his poor health, presume to ask him to please straighten me out on one little point with regard to how delaying pre-study will help?

Senator Frith: That is a new phrase—"delaying pre-study".

Senator Doyle: I mean, to have no pre-study. Let us call it what it is. I am sorry if I offend the honourable senator's ear.

The honourable senator wants to eliminate pre-study. He wants to let the Foreign Affairs Committee go on for weeks and months with what they have been doing, and doing as well as they can without the bill, and then say that we should ignore the bill. How is this going to help the honourable senator or any of the people who sit beside him to find the iniquity, to point out the iniquity and to take the iniquity to the people and demonstrate to them, in our committee, not only what is wrong with the agreement but what is wrong with the legislation? Why does the honourable senator want to leave that? Why is he afraid to come to it? How can he explain to the Ontario government, which is doing its legislative dance to try to hold off the bill, what other faults and

failings there are in the legislation, if he refuses to examine the legislation?

Senator Perrault: Let the House of Commons do its job and we shall do our job.

Senator Frith: As we always do.

Senator Perrault: We have always done it in the past and we have always done it very well.

I have yet to receive a reply to my question. How can this senator support this dramatic change of opinion and change of policy, without any explanation, by a prime minister who was elected on the basis of opposing free trade and who was widely quoted across the country? Has the Prime Minister confided in him? What great event occurred in his life? What great experience did he undergo? Did he receive a telephone call from Washington or from somewhere that changed his opinion about free trade? Why has his opposition now melted under the midday sun?

Senator Doyle: I do not presume to answer for the Prime Minister, but I have a recollection of the last election campaign. I recall, of course, that the Prime Minister had his doubts about a free trade agreement at that time. I make no bones about that, but I also remember that far more prominence was given to the fact that the Prime Minister was dreadfully concerned with the low state to which relations with the United States had fallen during the administration of the previous government. One of the first things on his order paper was a rejuvenation of good relations with the American people. He did begin to pursue that, and if in the process he found that there were trade advantages to this country he made no secret of them. He hastened to tell us all about them.

Some Hon. Senators: Hear, hear!

Senator Perrault: I am surprised to hear what the honourable senator has just said, because during the time of the previous government the relationship with the United States was a very healthy one. They knew precisely where we stood. The poet from New England, Robert Frost, said that honest fences make honest neighbours. We were on the side of a very honest fence. If the price of friendship is to give away sovereignty, resources, water supplies and make a bad deal in lumber, I would not call that a good relationship; I would regard that as a servant-master relationship. That is servility and I am not prepared to see that happen to this country. Again, I have not heard from any Conservative the rationale for this great, agonizing twist in Conservative policy. Years ago the Conservative Party was somewhat more concerned about Canadian values and Canadian independence than it seems to be at the present time.

Hon. Heath Macquarrie: Honourable senators, when I came to this place less than a decade ago, I was warned that, if you wanted to maintain even a semblance of popularity, you would be smart not to speak on a Thursday. It is apparent that others in this chamber did not receive that instruction, or, if they did, did not follow it.

• (1540)

I am not intending to enter into the rapid crossfire situation that exists between these two senators. I am too old, too moderate, too restrained and too modest to get into that, but I was impressed by something the honourable senator across the way mentioned. I think he talked about it being "Christmas in Quebec". I am not from Quebec. I am very, very poor in the language of the great majority of the people of that province, but during my long lifetime of being interested in politics, and I went to my first political meeting when I was 11 years old, by God!—and that was not yesterday or a couple of decades ago either—I often thought how important it was that those of us who lived in the other provinces could talk with, understand and show that we cared about the people who spoke a different language but who inhabited and loved the same country.

I thought this morning, when I read in the press and heard and saw on the electronic media that there would be an event in Quebec attended by the Prime Minister of Canada, of the Progressive Conservative Party, and by the Premier of Quebec, of the Liberal Party, that something was being done to help the people of that province.

I come from the smallest of the ten provinces. We have plenty of problems there, plenty of legitimate requests for assistance; but who would say that a measure of reasonable assistance and an extension of cooperation between the federal government and the Government of Quebec would be something that one would denigrate and scorn as mere "venture-ism" for partisan purposes? I thought it was great Canadianism.

As to whether or not the Prime Minister is going through a stage where he might be struck blind, I do not know, but, in this regard, I thought that perhaps he was more far-sighted than a great many other people and perhaps that might be the reason for the umbrage. I thought it was a great, great day and a great exercise in decent ecumenical Canadianism, and I am all for that.

A reference was made to my favourite poet, Robert Frost. I think he actually said, "Good fences make good neighbours." I believe that that is the era into which we are moving.

As Robert Thompson said, "The Americans are our best friends whether we like it or not." Perhaps it is sensible to realize that underlying fact.

I am sorry that Senator Perrault is upset about certain inconsistencies in the leader of our party.

Senator Doody: Sick and tired!

Senator Macquarrie: Yes, he said he was sick and tired of it. We do not want anybody to get sick and tired, although I do get a bit dozy myself on Thursday afternoons.

It is interesting to note that the one election in which I lost votes—I actually lost ground—was in 1974, when I had a hell of a time trying to explain to the people what the price and incomes program was all about. By the time I had that half explained, the election was over and I had lost several hundred votes. Then I survived a few weeks longer and those who had deprived me of those votes, those who had taken those votes

from me over that, exalted this as the cornerstone of the national temple, and we had price and income restraints.

So inconsistency may disturb the pure philosopher that Senator Perrault must be, but we have to remember what Ralph Waldo Emerson said: "A foolish consistency is the hobgoblin of little minds."

We, in our great Progressive Conservative Party, are not going to be little or mean over this issue.

Senator Perrault: Honourable senators, I do not want to prolong this exchange, but may I say that the eloquent diversion of Senator Macquarrie really did not address the question of pre-study whatsoever. He did, by implication, suggest that I am against certain aid to certain sections of this country; on the contrary, I believe that there are many initiatives out there that should be pursued by the federal government. I should like to see, however, the Prime Minister and members of cabinet become seized with the desperate situation that now exists in the prairie provinces, instead of concentrating so particularly on a by-election in one of our Canadian provinces.

Senator Macquarrie: Honourable senators, if that was a question—and I think it was—I can rise and say that I had no intention of talking about a pre-study or a post-study. I was moved by the eloquence and sparkle of the senator's speech. That is why I intervened and addressed myself to what he said.

On motion of Senator Frith, debate adjourned.

AIR CANADA PUBLIC PARTICIPATION

MOTION TO AUTHORIZE BANKING, TRADE AND COMMERCE COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-129—DEBATE ADJOURNED

Hon. Finlay MacDonald, pursuant to notice of Thursday, June 2, 1988, moved:

> That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of the Bill C-129, An Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public, in advance of the said Bill coming before the Senate or any matter relating thereto.

He said: Honourable senators, I will take the risk of being unpopular by speaking last on a Thursday afternoon, but I do not know of any better time to address this subject.

Honourable senators, the purpose of this motion and the opportunity of making a few supporting remarks is to ask my colleagues in this place to agree to a pre-study of Bill C-129, the Air Canada Public Participation Bill. This bill was debated in the other place on second reading on May 24, May 25, May 27, June 1 and June 3, for a total of five days. Some 20 persons spoke during the debate, which took some eight and a half hours. I am informed that the bill was referred to a Legislative Committee yesterday.

The Standing Senate Committee on Banking, Trade and Commerce is prepared, and indeed eager, to have the bill referred to it for pre-study. The committee is idle at the present time, awaiting with some degree of uncertainty consideration of legislation that may reach the committee over the next few weeks.

This is the second time in two weeks that we have had a motion for pre-study. On May 31 Senator Murray moved a motion to authorize the Foreign Affairs Committee to study the subject matter of Bill C-130. Senator MacEachen adjourned the debate and returned to the matter on June 7. It gave me some encouragement to hear him make this statement in his opening remarks:

> Honourable senators, in dealing with the motion that was moved by Senator Murray I want to put aside my frequently stated and well known reservations on the routine use of the pre-study technique and concentrate on whether there is any advantage at this time in initiating a pre-study of the free trade bill.

Honourable senators, I recognize that it is a basic principle of British parliamentary procedure that a bill must be dealt with consecutively in both houses. There are some practical reasons for that. Why would one house bother to consider a bill introduced in another place and not yet adopted therein? Presumably, it would be a waste of time for this house to better a proposal that, in the final instance, was to be rejected by the other. Hence, no house is to undertake pre-study of a bill introduced in the other without having been informed by message that the particular bill has been adopted in the house where it was first introduced.

Another disadvantage of pre-study may be that the exact contribution of the Senate to the legislative process becomes somewhat blurred, at least for the outsider, for there is no formal acknowledgement by the Commons of the senatorial input—a point put to me very strongly by Senator McElman.

Another possible drawback is that the Senate could waste its time in suggesting hundreds of amendments to a bill that will never reach the floor of the Senate because the House will later reject it at third reading.

These are all valid reasons, and it certainly might appear that they have found some favour recently by the majority in this chamber, in that I know of no other way to explain the recent reluctance to refer the subject-matter of a bill to the appropriate committee. Until approximately one year ago the arrangement or procedure which we call pre-study could hardly be termed a failure, in view of the increased willingness of the Senate to take advantage of it. The contrast is striking. Between the years 1971 and 1974 there were five references to committees for the pre-study of the subject-matter of bills, and between the years 1983 and 1986 there were 46 references.

Now, as the Joint Committee on Senate Reform noted in 1984 at page 38 of its report—and I wish that Senator Molgat were in his place—referring to part of their recommendations:

> The use of a suspensive veto would supplement rather than displace what is called the pre-study procedure. Pre-study is a most useful arrangement whereby the Senate can begin its consideration of the subject matter of a bill before it has received third reading in the House of Commons, thereby giving the Senate legislative input

> without formally amending the bill and without risking confrontation. The Senate achieves this input by communicating its views to the House informally. Pre-study should be continued.

And it goes on.

Though often referred to as the "Hayden formula", the pre-study device was not invented by that honourable gentleman. Its origins are to be found in the practice inaugurated during the Second World War by the Honourable James Horace King, who was then Leader of the Government in the Senate. In 1943 he recommended that the Estimates be referred to the Committee on National Finance, before the bills based on the Estimates arrived in the Senate. In 1945 Senator McGeer boldly suggested that all resolutions and bills laid before the House of Commons should be examined concurrently by the Senate and, although this sweeping change was not accepted, some royal commission reports and international agreements were examined in the Senate before the arrival of the legislation based upon them in 1945 and 1948, and in 1951 and 1958.

The revival of the procedure was chiefly the work of Senator Salter Hayden. On September 14, 1971, he successfully moved that his committee be authorized to examine and consider the summary of the 1971 tax reform legislation tabled that very day and "any bills based on the budget resolution in advance of the said bills coming before the Senate". Speaking to the motion, the Honourable Paul Martin, then Leader of the Government in the Senate, said, "We are not dealing with the principle of the bill. We are anticipating the bill", and he christened the procedure "pre-examination and study".

Since then an examination of the practice reveals three interesting trends. First, there was a growing popularity of the device. From 1971 to 1974 there were only five orders of reference involving in the subject-matter of bills. From 1974 to 1979 there were 30. During the Thirty-second Parliament, from 1980 to 1984, there were 34, while not less than 42 were adopted during the First Session of the Thirty-third Parliament, from 1984 to 1986.

• (1550)

The second interesting trend is the diffusion of its use. Between 1971 and 1979 27 references out of 35 were sent to the Standing Senate Committee on Banking, Trade and Commerce, which was chaired by Senator Hayden, but the Thirty-second Parliament witnessed many other committees taking advantage of the procedure. The Agriculture Committee had one; the National Finance Committee had seven; the Health, Welfare and Science Committee and its successor had five; the Legal and Constitutional Affairs Committee had three; and the Transport and Communications Committee had three. Of course, the reference of the subject-matter of the security intelligence legislation to a special committee, chaired by Senator Pitfield, produced one of the most oft-quoted examples of the usefulness of this procedure.

The third trend became apparent in the eighties through the increased willingness of the government to apply to bills the pre-study procedure. Prior to 1980, the motion for referral of the subject-matter of a bill to a committee was usually introduced by its chairman. In contrast, some two-thirds of the references for the period 1980 to 1984 found their origins in motions introduced by the Leader of the Government in the Senate or by his deputy. All of the references in the 1984 to 1986 session originated with the government.

Honourable senators, it is not my intention to develop any lengthy reasons to show that the advantages of this procedure are obvious. I think senators realize that they are. Pre-study saves time. It allows for a valuable Senate input that cannot be interpreted as a challenge to the House of Commons. It is a flexible device, for it is not, strictly speaking, a formal procedural step, such as any of the three readings given to bills. No rule of the Senate has attempted to formalize it and it is not compulsory. Whether to resort to this device is left to the Senate to decide, on a motion put by one of its members. Recently, however, this decision has been the subject of an informal conversation between the two leaders or their deputies. The rest of us are left to wonder about the reasons for delaying a reference to a committee.

I suggest that the chamber might occasionally have a voice in the decision to refer a bill so that, if it is not referred—and there may, indeed, be valid reasons for that, at least there would be a formal record of the reasons. I find it distressing that the leaders in this place appear to be unable to come to an informal, amicable agreement as to why a bill should or should not be referred. I have no difficulty in understanding the adversarial nature of this chamber, but I would like to see the opposing views expressed here. Otherwise, warranted or not, there are suspicions of mischief or game-playing.

Therefore, honourable senators, the questions I put to my colleagues are: Is the procedure known as "pre-study" up for re-examination? Is it being discouraged or is it being eliminated? If not, is it to be restricted to those bills that are complex, technical and do not raise deep party issues? A substantial portion of public legislation falls within this category. Why have so many issues that are related to the Senate been discussed in the media rather than in this house? Quite often I can find out more about what is going on here in the media than I can in the chamber.

Because most bills that we handle have secured the support of the elected representatives of the people, the House of Commons expects quick approval of them. I do not consider that the other place is blameless, but the result of these trends is that scores of bills are sent to the Senate in the final days of the session. We are expected to adopt them quickly and without changes. I can see why this is resisted, but what is the alternative other than pre-study? Let me add that just because a bill has been the subject of pre-study does not mean that I would for one moment suggest that it ought not to receive further study.

Senator Frith: That is what we were told on Bill C-22.

Senator MacDonald: Honourable senators, these and other questions come to mind, but my final point is simply that

pre-study can be cited as an example of how the efficiency of the Senate can be enhanced without any formal change to the law, to the Constitution or to the standing orders. As such, it fits appropriately into the Canadian political tradition. If it is to be limited or eliminated, surely we can have the reasons for that.

Some Hon. Senators: Hear hear!

On motion of Senator Frith, debate adjourned.

The Senate adjourned until Tuesday, June 14, 1988, at 2 p.m.

THE SENATE

Tuesday, June 14, 1988

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

Prayers.

IMMIGRATION ACT, 1976

BILL TO AMEND—FIRST READING

Hon. Peter Bosa presented Bill S-18, to amend the Immigration Act, 1976.

Bill read first time.

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

On motion of Senator Bosa, bill placed on the Orders of the Day for second reading on Thursday next, June 16, 1988.

[*Translation*]

NON-SMOKERS' HEALTH BILL

REPORT OF COMMITTEE

Hon. Arthur Tremblay, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, June 14, 1988

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

FIFTEENTH REPORT

Your Committee, to which was referred Bill C-204, An Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising, has, in obedience to the Order of Reference of Wednesday, June 8, 1988, examined the said Bill and has agreed to report the same without amendment.

Respectfully submitted,

ARTHUR TREMBLAY
Chairman

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

Senator Tremblay: Honourable senators, I move, for Senator Haidasz, that this bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*English*]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, over the years we have usually followed the practice of not abridging the one day's notice required for third reading of a bill except when Royal Assent is planned. We have often considered abridging the one day's notice when Royal Assent has been provided for that day. Senator Flynn first made this point, and I thought quite reasonably, some years ago.

I understand from Senator Doody that there will be Royal Assent today. For that reason we shall be glad to give leave for third reading today, provided that this bill can get Royal Assent later today.

Hon. C. William Doody (Deputy Leader of the Government): Royal Assent is planned for later today, senator. However, to my embarrassment, I must say that several senators have expressed an interest in speaking on third reading of this bill. I did not expect to receive it so expeditiously. I commend Senator Tremblay and his committee members on the speed and efficiency with which they handled this particular piece of legislation. It is amazing what the NDP can do, when they put their minds to it, in the Senate! I had thought they were dedicated to our extinction, but it seems that they have achieved a remarkable working relationship with us.

In any event, I would prefer, if it were the wish of the Senate, to delay third reading of this bill until the next sitting.

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

CANADIAN ENVIRONMENTAL PROTECTION BILL

REPORT OF COMMITTEE PRESENTED

Hon. Earl A. Hastings, Chairman of the Standing Senate Committee on Energy and Natural Resources, presented the following report:

Tuesday, June 14, 1988

The Standing Senate Committee on Energy and Natural Resources has the honour to presents its

EIGHTH REPORT

Your Committee, to which was referred the Bill C-74, An Act respecting the protection of the environment and of human life and health, has, in obedience to the Order of Reference of Wednesday, 1st June 1988, examined the said Bill and has agreed to report the same with the following amendments:

1. *Page 5, clause 6:* Strike out line 42 and substitute the following therefor:

"paragraph 34(1)(*a*), (*b*), (*c*), (*d*), (*o*) or"

2. *Page 40, clause 52:* Strike out lines 21 and 22, and re-letter the subsequent subparagraph accordingly.

3. *Page 92, clause 149:* In the French version, strike out line 10 and substitute the following therefor:

"fixées par proclamation."

Respectfully submitted,

EARL A. HASTINGS
Chairman

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

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

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Joan Neiman: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at three thirty o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Senator Neiman: Honourable senators, the committee is studying Bill C-89, proposing amendments to the Criminal Code relating to victims of violence. Professor Irvin Waller, whom I had arranged to have appear last week, can only attend today from 3.30 until 4.30 p.m. Then we have Mr. Justice Linden, president of the Law Reform Commission of Canada. Unfortunately, he, too, can only appear today, and we are anxious to hear both those witnesses.

● (1410)

Motion agreed to.

QUESTION PERIOD

ENTERPRISE CAPE BRETON CORPORATION

APPROVED PROJECTS

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I should like to ask the Leader of the Government a few questions arising from the speech he gave in this chamber on May 31 on Bill C-103.

[Senator Hastings.]

The first question has to do with a number of projects which the leader stated had been approved by Enterprise Cape Breton Corporation at the end of April of this year. Could the leader provide us with a list of those projects, their locations, the number of jobs involved and the sums attached to each project?

I could have put this question on the order paper, but I thought that it might be more direct to express my interest in the chamber and that the information might come forward more quickly by doing so.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think our colleague, Senator Graham, asked for the same information during the course of the committee meeting held last Wednesday evening. I undertook then to obtain whatever information is available. I shall do so.

Senator MacEachen: I regret having missed that committee meeting, but I had another commitment.

POLICIES TO BE FOLLOWED

Hon. Allan J. MacEachen (Leader of the Opposition): The leader also made this further comment, which I shall read, dealing with the Industrial Development Division of Devco:

> To the government, it seems only logical that we should bring the Industrial Development Division of Devco, which is an organization involved in regional development, into the ACOA family as well.

Are the overall policies followed by ACOA the policies that will be followed by Enterprise Cape Breton Corporation? Is that what is meant by bringing it "into the ACOA family"?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, in some respects it is fair to say that there would be a different policy framework for Enterprise Cape Breton Corporation as the continuation of the present Industrial Development Division of Devco. That different policy framework is not, so far as I am aware, inconsistent with the overall mandate for regional economic development given to ACOA, but there would be no purpose in continuing IDD as Enterprise Cape Breton Corporation if there were not some different policy framework and Cape Breton-specific objectives.

FUNDING OF AGRICULTURAL PROJECTS—POWERS—ROLE OF BOARD OF DIRECTORS

Hon. Allan J. MacEachen (Leader of the Opposition): Would I be correct in concluding that, while ACOA, as a whole, will not be involved in infrastructure, for example, or not involved directly in assistance to farmers, the new Enterprise Cape Breton Corporation will still be enabled to fund projects in the field of infrastructure, in the field of agriculture, as has been presently done by the Industrial Development Division of the Cape Breton Development Corporation?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Yes, honour-

able senators, those are valid examples of activities in which Enterprise Cape Breton Corporation, as a continuation of IDD, could continue to be engaged and in which ACOA, generally speaking, is not engaged. Again, in answer to questions from our colleague, Senator Graham, I did discuss the quite worthwhile activities of ACOA in encouraging economic activities and enterprises that are related to agriculture and fisheries. However, that is not what the honourable senator is asking. The short answer to his question is: yes.

Senator MacEachen: So that the president of ACOA, Mr. McPhail, would be rejecting applications under current guidelines for assistance to agriculture in New Brunswick or western Nova Scotia, but he would be approving them for Cape Breton under the Enterprise Cape Breton Corporation.

Senator Murray: Honourable senators, as I have stated previously, the generality of the case with regard to Enterprise Cape Breton Corporation is that ECBC will not be prevented from doing anything that the Industrial Development Division of Devco is now doing. However, I do want to take slight exception to the statement that the honourable senator has made to the effect that the president of ACOA would now be rejecting applications for assistance to agriculture. That is a very broad statement that would need to be considerably nuanced in order to be factual or to describe the situation as it exists.

Again, the other night I reported to the committee that ACOA does assist business enterprises that are related to agriculture and fisheries and I gave the example of a plant in Prince Edward Island, which, in company with Senator Phillips, I had the honour and pleasure of opening a few weeks ago—a plant to wash, grade and package potatoes for the export market.

The objective of this enterprise is to improve the quality of a local product for export to the United States. Therefore, ACOA has provided quite considerable assistance to this enterprise. The interesting thing about the enterprise, in connection with the honourable senator's question, is that the equity for it was put up by 40 local potato producers. Now, is that assistance to agriculture or is it not? I think it is.

However, we are not attempting to design or implement the kinds of programs of assistance to agriculture that are carried out either by the line departments, federally or provincially, or under the aegis of the ERDA subagreements on agriculture which we now have or will shortly have with each of the four provinces in that region.

Senator MacEachen: I understand that the contention is that the mandate of the new Enterprise Cape Breton Corporation is compatible or consistent with, or broader than, or identical—

Senator Murray: "Identical" is not too strong a word!

Senator MacEachen: —to the Industrial Development Division of the Cape Breton Development Corporation. That contention has been made, and I do not intend to question it, at least not now. Let us just say that that is the case. Presumably, ACOA as a whole will have a set of guidelines which it will apply broadly to the whole of the Atlantic provinces. However, within the family, as was mentioned by the minister, there is this adult, the Enterprise Cape Breton Corporation, which, theoretically, has broader powers. In other words, it will require a policy-decision by the president of ACOA as to whether those broader powers will be exercised.

● (1420)

The minister has applied a very broad definition to agriculture and has used the example of a processing plant or an enterprise. Let us take the case of farmers. ACOA will not be permitted to assist farmers directly. Will Enterprise Cape Breton Corporation be permitted, under the policy of the president, to assist farmers directly, as has been the case in the past?

Senator Murray: Honourable senators, we are entering into an area of hypothesis here. It seems to me that I answered the question fully when I said that they will have the power to do what they are doing now. I know of no reason why, if they are now providing useful assistance to small farming operations in Cape Breton, they could not continue to do so. There is no policy reason in the world why they could not.

I also want to emphasize to the Leader of the Opposition that the new Enterprise Cape Breton Corporation will have not just a minister and a president, the same minister and the same president as ACOA has, but also a board of directors of its own which will presumably have some say in the policy of the organization.

Senator MacEachen: Honourable senators, I do not think the minister has answered the question satisfactorily. It will require a policy decision by the minister and the deputy minister—in this case, Mr. McPhail—as to whether it is possible for one member of the family to have greater powers or greater amplitude of action than all the other ACOA areas. The minister has said that he sees no reason why not; but has a policy decision been made to implement that possibility? That is where the case rests. Mr. McPhail, as president, will have to decide to apply a different set of guidelines to Enterprise Cape Breton Corporation than he will apply in the rest of Atlantic Canada, if those powers are to be exercised.

Senator Murray: Honourable senators, I trust that the honourable senator is not scandalized by that proposition. Why does he think that in establishing the corporation we gave it the same legal powers as the Industrial Development Division of Devco? It was precisely so that they could exercise those powers. There had to be such a policy decision to bring in the bill in the first place.

The honourable senator has talked about guidelines. Under the ACOA legislation, as he will have seen, the minister has the power to designate certain areas of the region for specific periods of time and to bring in regulations that would differ in those particular areas from regulations that are in force elsewhere in the region. Yes, guidelines will differ and programs will be flexible. Part of the whole concept of the agency is that we will be able to respond to the different needs and opportunities in different parts of the region. As I told some people

in Cape Breton in the first week I had responsibility, I would, in practical terms, continue to regard them as a distinct society.

Senator MacEachen: I am not scandalized at all at the answer if it is to the effect that the guidelines that will operate, policywise, with respect to Enterprise Cape Breton Corporation will be wider and will give greater amplitude of action than those that apply generally to ACOA.

The minister understands, of course, that, even though we use the term "ACOA", it is just a government department, with a minister and a deputy minister. The deputy minister of ACOA is also the president of Enterprise Cape Breton Corporation. He is the boss, like any deputy minister is, and the board of directors—subject to the minister, of course—in this case, with respect to Enterprise Cape Breton, is purely advisory to the deputy and to the minister, the boss.

Senator Murray: I think not. I think they are in a different position. My friend said the board "is purely advisory." I think he was referring to the board of ACOA. What I am saying to him is that the board of Enterprise Cape Breton Corporation will have pretty much the same powers as the board of Devco had in relation to IDD.

Senator MacEachen: Would the minister confirm that?

Senator Murray: I think the bill confirms it in general.

Senator MacEachen: I do not think you can have a board of directors and a minister and deputy minister in charge simultaneously. The animal just could not walk.

If the minister is telling me that the intention is to give Enterprise Cape Breton Corporation the same authority, vis-à-vis a minister, as Cape Breton Development Corporation presently has, then I think I am helped. If that is not reflected in the bill, then I am encouraged, perhaps, to amend it.

Senator Murray: Of course, we shall have an opportunity to look at that when I appear as the closing witness before the committee—which I hope will be soon.

Enterprise Cape Breton Corporation will be a crown corporation. It has a mandate almost identical to that of the Industrial Development Division of Devco. As a crown corporation, it will have a board of directors which—and I make this as a general statement—will have the same mandate and powers in respect to ECBC as the board of directors of Devco has in respect of the IDD.

There is a provision, which I referred to in the course of my speech on second reading, that enables the minister to give direction to the head of the organization, but, as I said, I see nothing to be scandalized about in that regard. There is a power of direction given to the Governor in Council over other crown corporations, including Cape Breton Development Corporation.

These are finer points—I agree they are important—that we can explore in more detail in committee.

Senator MacEachen: I appreciate what the minister has said, because it seems to me that, if the new Enterprise Cape Breton Corporation has the same status as the Cape Breton Development Corporation had, that changes the perspective a great deal.

I add that it appears to me, subject to clarification of the finer points—if that is the right way to put it—that, when you have a president of ACOA and a president of Enterprise Cape Breton, the deputy minister stands in the same relationship to those agencies as any other deputy minister: he is the boss. But that is not how Devco operates. No minister or deputy minister bosses Devco around. That is one of my concerns at any rate, and I am prepared to wait to hear further evidence in committee.

• (1430)

Senator Murray: I think that the president of Devco has deputy-head status, whatever that may mean, but the person who runs the Industrial Development Division is a vice-president of Devco.

Senator MacEachen: The president of Devco, with two vice-presidents under him, ran both sides of Devco. No minister, in my 20 years' experience in government, ever directed Devco on any particular point. Devco submitted its budgets directly to Treasury Board, had them approved and ran its own show. There was no project approval by any deputy minister; that was done by the organization itself. At any rate, I apologize to honourable senators for having gone on too long; I should do this elsewhere.

TIBET

DALAI LAMA'S FIVE-POINT PEACE PLAN—GOVERNMENT POSITION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have a question for the Leader of the Government in the Senate. Senators may have noticed recently an intermittent but steady flow of horror stories of suppression of the Tibetan people in their homeland. The Dalai Lama presented a five-point peace plan to the United States Congress in September of last year. Since that time, I am informed, the plan has been accorded the support of the Congress of the United States, the West German Bundesrat and the European Parliament. Canada, however, is not included among those giving formal support to the Dalai Lama's five-point peace plan. Will the Leader of the Government in the Senate ask his colleague, the Secretary of State for External Affairs, to explain why that is so?

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

VETERANS AFFAIRS

ELIGIBILITY AND CRITERIA FOR WAR VETERANS ALLOWANCE

Hon. M. Lorne Bonnell: Honourable senators, I note, with gratitude, that the Minister of Veterans Affairs has announced that $200 million will be given over the next five years to Canadian veterans who served for Canada. They will become

eligible for the VIP program or the Aging Veterans Program. I brought this matter before the Senate a week or so ago. I see that he took my advice and I thank him for it. I think that is great. I did not realize the minister paid so much attention to what happens in the Senate, but it seems that he does. He also thinks about our veterans.

Could the Leader of the Government in the Senate advise us if that also means that those Canadian veterans who served for at least one year but remained in Canada are also eligible for the War Veterans Allowance?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The short answer to the last part of the question, honourable senators, is no. The announcement made by my colleague, Mr. Hees, concerns the so-called VIP program and its application only to Canadian-service veterans. With great respect to the honourable senator's influence and to my own, I think it would be proper to give credit where credit is due; that is, to the Canadian Legion, which has been pressing this case for some time, and to an extraordinarily dedicated and effective minister, the Honourable George Hees.

Senator Bonnell: Honourable senators, I agree that the Canadian Legion also deserves credit. It has also been asking that these other veterans receive the War Veterans Allowance. According to the minister, that has not yet come into effect.

Since this would be on a means test or a needs test, would the Leader of the Government know the criteria or know the figure for the means test at this time?

Senator Murray: Honourable senators, I am afraid I do not. I do not have the details of the new program in front of me, but I shall obtain that information and ensure that my honourable friend receives a copy.

Senator Bonnell: Thank you.

NATIONAL DEFENCE

SPRAYING OF POISONOUS NERVE GASES

Hon. M. Lorne Bonnell: Honourable senators, according to an article in *The Ottawa Citizen* of June 14, 1988, the Government of Canada has been spraying poisonous nerve gases over 12 square kilometres of Canada. Apparently, there was no prior warning that this spraying of poisonous nerve gases would take place. According to this article, researchers have dispersed a poisonous gas called tabun, another poisonous gas called saran, another poisonous gas called soman and a poisonous gas called mustard, which was responsible for the death of many veterans in the First World War and has also been used recently in the Iran-Iraq war.

I should like to ask the Leader of the Government how often this spraying has been going on and if these gases have been sprayed on Prince Edward Island citizens as well.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall take that question as notice.

THE GOVERNMENT

LEGISLATIVE PROVISION FOR EXPENDITURES

Hon. John B. Stewart: I should like to ask the Leader of the Government a question supplementary to the first question that Senator Bonnell asked this afternoon.

I believe honourable senators will have noted over the last few weeks that various announcements have been made that round sums of money are going to be spent over the next five years. Could the Leader of the Government in the Senate tell us what the legislative basis will be for these expenditures? Is the government saying that its intention is to request one-fifth of the amount from Parliament in each of the annual Main Estimates, or will there be, in the case of each program, a bill saying, "This amount of money"—let us say $1 billion—"shall be expended for the following purposes . . ." during the period of five years? How are these announcements to be given legal status? What is the intention?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not sure it is possible for the government to give a reply to that question in general. Perhaps it would be more appropriate to deal with specific cases.

Since the question that gave rise to the honourable senator's question concerns the eligibility of Canadian-service-only veterans for the VIP program, I shall, as an illustration, obtain an answer to the honourable senator's question in respect of that decision.

[*Translation*]

Hon. Fernand-E. Leblanc: Honourable senators, my question is further to the one raised by Senator Stewart (Antigonish-Guysborough). When expenditures are announced for the next five years, since quite specific amounts are always announced, do they say at the same time that the amounts will be indexed?

Senator Murray: Honourable senators, again, it is very difficult to give you a general answer. But regarding the veterans' program in question, I would be glad to get an answer and to table it within a few days.

[*English*]

TRANSPORT

PRINCE EDWARD ISLAND—HIGHWAY CONSTRUCTION—GOVERNMENT FUNDING

Hon. M. Lorne Bonnell: Honourable senators, today, as I was driving towards the airport in my home area in Prince Edward Island, I noticed several workmen taking up the railway ties. Apparently, no longer can we ship our potatoes and our produce by rail because the rails are being lifted. I also read in the newspaper when I arrived in Ottawa that last night, in a by-election speech in Alma, the Prime Minister promised approximately $50 million to complete a road link between Lac St. Jean and James Bay.

• (1440)

Would the minister be able to tell me—because we are losing our rails, and all the 18-wheeler tractor-trailers that will

be travelling on our roads in Prince Edward Island will be breaking up our light pavement, because we have no heavy soil or rock—how many million dollars we can expect in Prince Edward Island to assist us in the construction and reconstruction of our highway system?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend will be aware, perhaps, that there is now in force a $40 million transportation agreement between the federal government and the Government of Prince Edward Island, an ERDA subagreement which expires at the end of next March. He will also be pleased, I trust, to know that I shall be meeting with Premier Ghiz on Thursday of this week to discuss with the premier, his officials and other ministers the possible renewal of the transportation agreement as of April 1, 1988, and the wider transportation problems of Prince Edward Island.

Senator Bonnell: I want to thank the minister for that answer and tell him that, when he is down there, I hope he will realize that Prince Edward Island is the only province in Canada without rail. All our transportation will be by road. Therefore, the province will have to receive much greater support from the federal government to maintain the road system. I hope he will open his heart, as well as the federal government's purse, to ensure that at least 90 per cent of the construction costs are paid by the federal government.

Hon. Heath Macquarrie: Honourable senators, I wish to supplement that question from my colleague from Prince Edward Island.

Senator Marshall: Was there an answer?

Senator Macquarrie: There was no answer forthcoming, as a matter of fact, and I do not think there need be one, but there may be one for my perceptive question.

In light of the fact that the present government has committed itself to the most modern, expensive and most up-to-date communication between Wood Islands and Pictou County, and considering that the present government has also committed itself to the most careful study of a sympathetic reaction to a permanent link and has also made important suggestions as to the improvement of highways in the province, would it not be incumbent upon me to ask the minister to convey to those ministers who are not in his department that most of us on Prince Edward Island think that that is a good step, considering that transportation has been one of our most important problems for many years, and which was especially exacerbated when Pierre Elliott Trudeau decided that—

An Hon. Senator: Shame!

Senator Macquarrie: —we would not have the causeway?

Senator Steuart: Partisanship!

Senator Murray: Honourable senators, that is a very impressive record indeed. Only my modesty forbade me from going into more detail when I replied to Senator Bonnell's question!

Some Hon. Senators: Hear, hear!

[*Translation*]

EXCISE TAX ACT
EXCISE ACT

BILL TO AMEND—THIRD READING

Hon. Jacques Flynn moved the third reading of Bill C-117, to amend the Excise Tax Act and the Excise Act.

Motion agreed to and bill read third time and passed.

[*English*]

CAPE BRETON DEVELOPMENT CORPORATION ACT

BILL TO AMEND—THIRD READING

Hon. Orville H. Phillips moved the third reading of Bill C-127, to amend the Cape Breton Development Corporation Act.

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:

RIDEAU HALL

June 14, 1988

Sir,

I have the honour to inform you that the Honourable Gerald Le Dain, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 14th day of June, 1988, at 4.45 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable Guy Charbonneau, Senator
Speaker of the Senate
Ottawa

PATENT ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bonnell, seconded by the Honourable Senator Petten, for the second reading of the Bill S-15, An Act to amend the Patent Act.—(*Honourable Senator Barootes*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I wish to speak on this matter.

Last week, when Senator Barootes asked to adjourn this debate, I pointed out that we wanted to complete the debate on second reading of this bill and send it to committee so that the divergent views on the two sides of the house could be examined by the committee.

During the debate it has been clear that some honourable senators feel that the statistics support one point of view while others think that they do not. That is why we were hoping that this bill would be sent to committee. I indicated then that we would be asking for a vote on the bill this week and would not support any further motions for adjournment.

On Thursday I received a memorandum from Senator Barootes, which is not marked confidential—and I see no reason why he would have wanted it to be confidential—in which he says:

> RE: S-15
>
> Unfortunately I have several commitments in Regina next week and would consider it a personal favour if you would hold off on S-15 until I return to the Senate chamber the week of June 20, 1988.

Senator Steuart: He is doing more research!

Senator Frith: Knowing Senator Barootes' attitude to this bill, I am not sure whether the prefix "un", which appears before the word "fortunately", was not there by mistake. However, let us assume that he considers it unfortunate that he is unable to be here to speak to this bill. I am prepared to make that assumption. But I am also assuming that he will understand that we do not want to be discourteous to him, but that we did want to have this bill referred to committee this week. So I hope that he will come back not just during the week of June 20 but on June 20, so we can actually deal with the bill then. We shall be asking that the bill be put to a vote on second reading next Tuesday. We shall also oppose any motions for adjournment at that time.

● (1450)

Senator MacDonald: What committee?

Senator Frith: We shall have to discuss that, but probably to the "idle committee" of Banking, Trade and Commerce, as you have described it.

Senator Doody: We may have to wait a few weeks to determine that.

Senator Frith: If you have any ideas, you have a week to intervene.

The Hon. the Speaker: Shall the order stand, honourable senators?

Hon. Senators: Agreed.

Order stands.

[*Translation*]

PRIVATE BILL

MONTREAL TRUST COMPANY OF CANADA—SECOND READING

Hon. Michel Cogger moved the second reading of Bill S-17, to authorize the Montreal Trust Company of Canada to be continued as a corporation under the laws of the Province of Quebec.

He said: Honourable senators, before discussing fully the rationale of Bill S-17, I would like to retrace briefly the history of the companies which form the Montreal Trust group.

[*English*]

Montreal Trust began its operations in 1889 by a special act of the Legislature of the Province of Quebec. For almost 90 years Montreal Trust developed its business in Quebec and across Canada under this incorporation.

In 1978 the Montreal Trust Company of Canada was incorporated under the Trust Companies Act of Canada as a subsidiary of the Montreal Trust Company. This company was established to assume, over time, much of the business of Montreal Trust outside Quebec, to develop new markets in the rest of Canada and to diversify the operations of Montreal Trust. In practice, both the Montreal Trust Company and the Montreal Trust Company of Canada have operated out of the same branch network under the name "Montreal Trust". The head office is in Montreal.

In a corporate reorganization in 1982, both the Montreal Trust Company and the Montreal Trust Company of Canada became wholly-owned subsidiaries of Montreal Trustco Inc., a newly created, federally incorporated public company, 40 per cent of the shares of which are publicly held and traded on the Toronto and Montreal stock exchanges.

In 1986, Montreal Trustco acquired all the shares of Crédit foncier, a mortgage loan company operating throughout Canada since 1880. On January 1, 1987, Crédit foncier was amalgamated with the Montreal Trust Company by an act of the Legislature of the Province of Quebec. More recently—in April of this year—Montreal Trustco acquired Roynat Inc., a federally chartered commercial term lending institution.

I would now like to turn to the purpose of the bill before us. Bill S-17, honourable senators, is required to enable the Montreal Trust Company of Canada and the Montreal Trust Company to amalgamate into one trust company. As a first step, however, the Montreal Trust Company of Canada must be continued as a trust company operating under the laws of the province of Quebec.

Under existing federal and provincial legislation, two companies incorporated in different jurisdictions may not at this point merge. Only when Bill S-17 has passed, honourable senators, can Montreal Trust then apply to the Government of Quebec to merge its two trust companies in accordance with the procedure and requirements of the recently passed Quebec Trust Companies Act.

The basic objective of the proposed amalgamation is to create a stronger and more efficient trust company and to solve many of the complexities and disadvantages that have resulted from carrying on throughout Canada the same trust and deposit-taking activities in a two-company structure.

Although Montreal Trust Company and Montreal Trust Company of Canada are both licensed to do business across Canada, in practice, Montreal Trust Company has restricted

most of its financial intermediary activities to Quebec while Montreal Trust Company of Canada has carried on these same activities throughout the rest of Canada.

The acquisition in 1986 of Crédit foncier has greatly complicated this operational regime. By merging with Crédit foncier, Montreal Trust Company acquired all of Crédit foncier's assets and operations nationwide. Thus, Montreal Trust Company and Montreal Trust Company of Canada now both provide a complete range of trust and deposit activities across Canada.

The many inefficiencies and complexities resulting from the existing organizational separation between Montreal Trust Company and Montreal Trust Company of Canada will be eliminated as a result of the proposed merger.

Another important objective of the amalgamation is to be able to respond in a better way to the new regulatory environment governing financial institutions in Canada. The new Ontario and Quebec trust companies acts and draft federal legislation dealing with trust and loan companies are based on a number of general principles, including the desire to prohibit business dealings between what are termed "related parties". Under these legislative initiatives, Montreal Trust Company and Montreal Trust Company of Canada are deemed to be related parties and are, therefore, generally prohibited from dealing with one another. This new regulatory environment will further complicate and constrain the ability of Montreal Trustco to operate and manage both Montreal Trust Company and Montreal Trust Company of Canada as if they were a single company. The proposed amalgamation will remove these existing and future constraints.

In summary, as a result of the proposed merger regulatory supervision will be simplified and more effective. Primary responsibility for regulation of the merged trust company will rest with the Province of Quebec. As honourable senators know, Quebec has a well organized supervisory framework with an excellent reputation. Thus, this eliminates the risk that problems will slip through the cracks as a result of dual supervision. Regulators in the province of Quebec have had jurisdiction over Montreal Trust since 1889, and their knowledge of the company is unsurpassed.

I should also like to add that the proposed amalgamation will in no way reduce existing insurance protection of deposits. Clients' deposits will continue to be protected up to $60,000 inside Quebec by the Quebec Deposit Insurance Board and in the rest of Canada by the Canada Deposit Insurance Corporation.

Essential to the proposed amalgamation, therefore, is the continuance of the Montreal Trust Company of Canada under the laws of the province of Quebec. Bill S-17 will, when passed, provide that authority. The bill has been approved by the board of directors and shareholders of the Montreal Trust Company of Canada and all legal notification requirements set out in the Rules of the Senate of Canada and the Standing Orders of the House of Commons have been fulfilled.

[Senator Cogger]

Furthermore, the Minister of State for Finance, the Honourable Thomas Hockin, the Superintendent of Financial Institutions, Mr. Mackenzie, and the Inspecteur général des institutions financières du Québec, Mr. Bouchard, have been fully informed of Montreal Trust's proposed course of action and have expressed their support for the bill.

In conclusion, honourable senators, Montreal Trustco's plan to amalgamate its two trust companies makes excellent business sense and is, therefore, clearly in the best interests of its shareholders, clients and the general public. Consequently, I urge honourable senators to give swift passage to Bill S-17 so that Montreal Trustco can proceed with its planned amalgamation as soon as possible.

● (1500)

Hon. Sidney L. Buckwold: Honourable senators, it is comforting to find myself on the same side as Senator Cogger with respect to this particular bill. I hope that it is a forerunner of the kind of cooperation that will go on in this chamber, but I would not count on it too much.

In any case, I want to associate myself with the remarks that have been presented by Senator Cogger in asking for the support of this chamber for this particular bill. The Montreal Trust Company of Canada, the Montreal Trust Company and Montreal Trustco Inc. of Canada are corporate names for organizations that all provide excellent service to the people of Canada, right across the nation. It has been said on occasion that there are some great namesakes of the city of Montreal: the Montreal Canadiens; the Montreal Expos; the Bank of Montreal and, of course, the Montreal Trust Company—and if Senator Flynn had come from Montreal I would have included him in that list.

There are a few questions that I think should be asked when this legislation goes to committee. It is interesting to notice the trend that seems to be occurring—if it is, indeed, a trend. The fact is that this is the second financial institution that has moved its registration and, essentially, its incorporation from a federal charter to a provincial charter. Some months ago we went through this exercise in relation to the Cooperants, Mutual Life Insurance Society, which changed its charter from a federal charter to a Quebec charter. As I say, it may be interesting for the committee to find out just what the advantages are of being a Quebec financial institution.

Certainly, I agree with Senator Cogger that Quebec supervisory requirements are as good as anywhere in the country. Montreal Trust, as it operates in Quebec, has been one of the best run financial institutions in Canada, and I have no hesitation in saying that. However, I would simply like to know what is happening. Is this indeed the beginning of a trend whereby we shall see many financial institutions considering it to their advantage to be Quebec incorporated—or Ontario, or Saskatchewan incorporated—as opposed to having a federal charter?

At one time, I suppose, financial institutions really felt that their image would be better if they could call themselves, for example, the Montreal Trust Company of Canada; that that

somehow had a better ring to it and made the company seem more important. Now we are, perhaps, finding a trend the other way. Whether or not there are changes in tax implications is something that the committee might consider.

All in all, I can say that this very fine trust company must know what it is doing, and I support Senator Cogger in suggesting that this bill go to committee. I would suggest that the Standing Senate Committee on Legal and Constitutional Affairs is the appropriate committee to consider this matter, which I feel will have the support of that committee and, in due course, of this chamber.

[*Translation*]

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?

On motion of Senator Cogger, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

TOBACCO PRODUCTS CONTROL BILL

SECOND READING

On the order:

> Resuming the debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Rossiter, for the second reading of the Bill C-51, An Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products.—(*Honourable Senator Flynn, P.C.*).

Hon. Jacques Flynn: Honourable senators, I don't smoke; I quit smoking eight years ago. I don't have a problem, although I am often surrounded by smokers. No one in either my wife's family or mine smokes. In recent years I have noticed fewer people are smoking. Cigarette manufacturers are experiencing an irreversible and regular drop in sales.

In view of these considerations, one would have thought I would wholeheartedly support Bill C-51. I have to say that is not the case. I will not vote against the bill, but I must say this kind of bill annoys me, and it is part of a trend that started a few years ago. The government or Parliament is being asked to intervene in all kinds of areas.

I feel that, as long as the use of tobacco is not prohibited, the state should intervene only for educational purposes, to urge the general public, and especially young people, not to smoke.

In fact, I believe that to a certain extent education has in recent years made some very substantial progress, but I think there is too much pushing right now. I feel the anti-smoking lobby is getting very aggressive, despite the inroads that education and anti-smoking campaigns have made thus far.

I referred earlier to the tendency to ask Parliament to intervene in all kinds of areas, which is rather unusual, because when the Charter of Rights and Freedoms was adopted in 1981, people were saying we should not restrict individual freedoms, the freedom of expression, freedom of action, et cetera.

Since then, on many occasions the courts have declared certain provisions unconstitutional or invalid, in cases often unforeseen by Parliament. The courts tell us not to interfere with the Charter, but on the other hand, there is also a trend towards asking Parliament constantly to intervene.

As for this particular bill, I don't like the provisions that prohibit advertising. I agree the public should be informed, and that cigarette manufacturers should be obliged to provide a clearer and more specific warning that excessive use of tobacco is dangerous to your health. I agree. I feel that legislating this kind of warning might accelerate the process of getting people to stop smoking. Abolition or prohibition may come some day, when we decide that tobacco is so harmful that it should be prohibited on the same grounds as marijuana or other hard drugs. Honourable senators will recall that a joint legislative committee that was appointed came very close to recommending that marijuana not be made legal but taken out of the Criminal Code. That was a step in another direction. Since that time, the anti-smoking lobby has taken a stance that I sometimes find very aggressive and very exaggerated.

I am sure the majority of honourable senators will agree to support Bill C-51. Personally, I would like to say, for the record, that I am annoyed and also concerned that all the banning and prohibiting provided here may contravene the provisions of section 2(b) of the Charter. In any case, I do not look on the present progress of Bill C-51 with any enthusiasm.

• (1510)

[*English*]

Hon. Mira Spivak: Honourable senators—

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

Senator Spivak: Honourable senators, in closing the debate I wish to add to the remarks I made in response to a question asked last Tuesday by Senator Thériault. Since then I have had a chance to look at my response in *Hansard* and I would like briefly to clarify and add to those comments.

Senator Thériault asked a question about advertising. I said that 65 per cent of advertising of tobacco products is now done in American magazines. The correct statement is that 65 per cent of magazines read in Canada are American magazines containing advertisements for American cigarettes. The point is, as I said, that those magazines do not advertise Canadian cigarettes but American cigarettes, which only a small percentage of the Canadian public—less than one per cent—accepts.

Let me briefly expand on the advertising provisions of Bill C-51. The bill will prohibit the following situations in the field of magazine advertising: It will prohibit tobacco product advertisements placed from within Canada in Canadian media. The bill will prohibit tobacco product advertisements

from within Canada in foreign media, the latter being eventually received in Canada. It will prohibit tobacco product advertisements being placed from outside Canada in Canadian media and it will also prohibit tobacco product advertisements from being placed from outside Canada in foreign media, the latter being eventually received in Canada. As well, Canadian tobacco manufacturers will be further discouraged from placing tobacco advertisements in American magazines circulated in Canada, because section 19 of the Income Tax Act disallows the advertising tax deduction for such advertisements in U.S. magazines.

I also incorrectly stated, not being exactly perfect—

Senator Doody: Never admit it!

Senator Marshall: But you are close!

Senator Spivak: Yes, I am close to perfect. In any event, I stated that there is a voluntary ban on the advertising of cigarettes in the United States. In fact, it is not a voluntary ban but a legislative ban. We have a voluntary ban in Canada.

Senator Thériault also asked whether the legislation would interfere in any way, now or in the future, with the Free Trade Agreement. I suggested to him that that was not an issue. I would like to expand slightly on that comment and give you a couple of points that were debated in the House committee.

Under the Free Trade Agreement there will be a tariff reduction. The 20 per cent tariff on imported cigarettes will be removed in ten equal instalments, beginnning in 1989 and ending in 1999, gradually equalizing the price of U.S. and Canadian cigarettes in Canada. However, U.S. cigarettes have a markedly different taste from Canadian cigarettes and, as I said, they account for less than 1 per cent of cigarette sales in Canada. According to the officials in the Department of National Health and Welfare with whom I have consulted since last Tuesday, tariff reduction is not expected to have any major impact on either Bill C-51 or patterns of tobacco consumption in Canada.

The Free Trade Agreement will relax the definition of "Canadian magazine" by removing the requirement for typesetting and printing in Canada, but the requirement that the magazines be edited and published in Canada to qualify as a Canadian magazine will remain. Again, according to the officials of the Department of National Health and Welfare, the change in definition of "Canadian magazine" is not expected to have a major impact on the application of the proposed Tobacco Products Control Act. Of course, the very detailed provisions in the bill prohibit advertising in the manner just described. I hope this further expansion on Senator Thériault's question about the effect of Bill C-51 on the Free Trade Agreement will be of help to him. I hope, too, that this bill will receive swift passage in this chamber.

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 Spivak.]

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

● (1520)

AIR CANADA PUBLIC PARTICIPATION

MOTION TO AUTHORIZE BANKING, TRADE AND COMMERCE COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-129 NEGATIVED

On the Order:

Resuming the debate on the motion of the Honourable Senator MacDonald (*Halifax*), seconded by the Honourable Senator Robertson:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of the Bill C-129, An Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public, in advance of the said Bill coming before the Senate or any matter relating thereto.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, last week Senator MacDonald intervened on this order with a well researched, well organized and, I must say, well delivered and very persuasive argument against the motion I think he intended to support. The report of that speech is found in *Debates of the Senate* of June 9, 1988, at page 3650.

The first comment Senator MacDonald made was that he wanted to make some supporting remarks to ask his colleagues in this place to agree to a pre-study of Bill C-129, the Air Canada Public Participation Bill. He then mentioned that the bill was debated in the other place on second reading on May 24, May 25, May 27, June 1 and June 3, for a total of five days. He told us that some 20 members spoke during the debate in the other place and that it was then referred to a legislative committee. Those comments may very well have been by way of background and not meant in any way to support the idea of pre-study of the bill. The fact that it was debated in the other place certainly would have no bearing on whether we should do so here.

The next point he made—again for background, I take it—was that the Standing Senate Committee on Banking, Trade and Commerce was idle at the moment. He said that it was eager to have the bill referred to it for pre-study. I am not certain of the basis upon which that statement was made. I take it that since Senator MacDonald is the deputy chairman of that committee he has a sense of that being the case. I do not know of any resolution to that effect from the committee; if there were such a resolution, I am sure he would have stated it.

Then, in support of this motion, he went on to give several reasons against pre-study. He said:

> . . . it is a basic principle of British parliamentary procedure that a bill must be dealt with consequently in both houses.

I am sure he did not mean to say "consequently"; I am sure he meant "consecutively". He then pointed out the practical reasons for that. He said:

> Why would one house bother to consider a bill introduced in the other place and not yet adopted therein? Presumably, it would be a waste of time for this house to better a proposal that, in the final instance, was to be rejected by the other. Hence, no house is to undertake pre-study of a bill introduced in the other without having been informed by message that the particular bill has been adopted in the house where it was first introduced.

That is the first reason Senator MacDonald gives for not having a pre-study.

Presuming that the background remarks I referred to were not meant to be reasons for not having a pre-study, the second reason Senator MacDonald gives against pre-study, which he describes as a "disadvantage", is that it may be that the exact contribution of the Senate to the legislative process becomes somewhat blurred, at least for the outsider. There is no formal acknowledgement by the Commons of the senatorial input. He said that was a point put to him very strongly by Senator McElman. Senator McElman, Senator MacDonald and I agree very strongly on that point. I think that is the view of other senators also, because I can remember many occasions when, after a pre-study of some months, a bill was then passed and we were accused of rubber stamping it because we had passed it when it was returned after pre-study.

Still on the reasons against this motion, Senator MacDonald gave a third reason, when he said:

> Another possible drawback is that the Senate could waste its time in suggesting hundreds of amendments to a bill that will never reach the floor of the Senate because the House will later reject it at third reading.

Honourable senators, that is also a very persuasive reason for not having pre-study.

Then, to make sure we are in no doubt as to where Senator MacDonald stands on these reasons against his motion, he said that "These are all valid reasons . . ." He then said, ". . . I know of no other way to explain the recent reluctance to refer the subject-matter of a bill to the appropriate committee." Honourable senators, those three reasons as to why there should not be pre-study, all advanced by him, sound pretty good to me.

He then went into a scholarly dissertation—and I do not say that sarcastically—of the research he had done on the trends. He drew contrasts between certain periods when the idea of pre-study was first very popular, then gained popularity and then lost popularity. The result of this study is, it seems to me, to show that in certain periods the idea of pre-study was becoming routine and that reference to a committee for pre-study was becoming almost automatic and, of course, represented a reversal of what he had earlier described as a "basic principle of parliamentary procedure."

He then studied these trends of popularity and referred to the diffusion of the use of this procedure between 1971 and 1979.

At page 3651 he referred to a third trend, when he said:

> Honourable senators, it is not my intention to develop any lengthy reasons to show that the advantages of this procedure are obvious.

I can understand that, because he did list a number of strong disadvantages to the procedure. When it came to listing the advantages, apparently he ran out.

In the next paragraph, he said:

> I suggest that the chamber might occasionally have a voice in the decision to refer a bill so that, if it is not referred—and there may, indeed, be valid reasons for that . . .

He, himself, in fact, listed a long number of reasons why we ought not to do it. He went on to say:

> . . . at least there would be a formal record of the reasons.

That, honourable senators, was the most articulate and persuasive reason that I found in all of his interventions to support the fact that the whole practice has gotten out of hand, because, if you notice, Senator MacDonald now reverses the onus. The parliamentary tradition that he honoured in the first part of his speech, that is, consecutive dealing with bills, is now subverted so that Senator MacDonald thinks that we, the rest of us in the chamber, should accept the onus of explaining why there should not be pre-study. The assumption is that there will always be pre-study. The tradition has gone. The onus is on us to resist pre-study and to explain why we should follow the traditions of Parliament.

He then went on to say:

> . . . the questions I put to my colleagues are: Is the procedure known as "pre-study" up for re-examination?

He did not ask: Is Parliamentary tradition up for re-examination? He asked: Is pre-study up for re-examination? He went on further to ask:

• (1530)

> Is it being discouraged or is it being eliminated? If not, is it to be restricted to those bills that are complex, technical and do not raise deep party issues?

Again, the onus is changed. The question Senator MacDonald asks is: Why are we not following pre-study instead of normal procedures? The onus is on those who want to follow the tradition to explain why they want to do things in the well established and proper way. And, honourable senators, if that is not enough, he adds:

> Because most bills that we handle have secured the support of the elected representatives of the people, the House of Commons expects quick approval of them.

Is that a reason for the Senate not to do its job? Are we not to do our proper job because the elected representatives of the people, the members of the House of Commons, expect quick approval? Senator MacDonald then says that, because the other place expects that quick approval, scores of bills are sent

to the Senate in the final days of the session and senators are expected to adopt them quickly and without changes. Honourable senators, is that a reason to change the parliamentary tradition that Senator MacDonald, himself, has researched and put forward?

The honourable senator proceeded further to say:

> Let me add that just because a bill has been the subject of pre-study does not mean that I would for one moment suggest that it ought not to receive further study.

Perhaps he would not, but his leader would. His leader did, for example, on Bill C-22. He told us that we ought not to proceed with regular study of that bill because it had already been pre-studied; and he spent a good deal more than "a moment" in doing so.

Honourable senators, no reason whatever has been put forward to reverse the tradition. I think we should put a stop right now to the concept that the onus is on those opposing pre-study to demonstrate why there should be no pre-study—a tradition for which, as Senator MacDonald himself has said, there are abundant good reasons. Honourable senators, Senator MacDonald is an urbane, intelligent and open-minded person. Because he is all of those things, I invite him to join us in defeating his motion for the reasons he put forward.

Hon. Finlay MacDonald: Honourable senators—

The Hon. the Speaker: Honourable senators, if Senator MacDonald speaks now, his speech will have the effect of closing the debate on second reading.

Senator MacDonald: Honourable senators, I shall move later today that two more bills be pre-studied, so I am sure that the arguments put forward by Senator Frith will apply equally to them.

As to my first point—the suggestion that, traditionally, bills should be studied consecutively—I probably should have added that, arguably, that worked best in a more balanced bicameral atmosphere or that, arguably, it works perfectly when both chambers are dominated by the same party. The honourable senator did not quote the conclusion drawn by the Joint Committee on Senate Reform. Why would he have left out, in referring to my remarks of the other day, the reference to the report of that distinguished joint committee? Here is what was stated at page 38 in reference to the suspensive veto:

> The use of a suspensive veto would supplement rather than displace what is called the pre-study procedure. Pre-study is a most useful arrangement whereby the Senate can begin its consideration of the subject matter of a bill before it has received third reading in the House of Commons, thereby giving the Senate legislative input without formally amending the bill and without risking confrontation. The Senate achieves this input by communicating its views to the House informally. Pre-study should be continued.

Honourable senators, we shall always have matters to deal with at the eleventh hour. Otherwise, the House of Commons would have to stop operating months before we did so that we could eventually catch up with their work by the time the Standing Orders caused us to adjourn. That would be the only way to avoid complaints of last minute rushes with respect to legislation. We shall always have matters to deal with at the last minute.

Senator Frith: Why? Let us deal with them.

Hon. Allan J. MacEachen (Leader of the Opposition): May I ask the honourable senator a question? What is wrong with continuing our session, as we did last year, to complete the work that we receive in the last days of June? What is wrong with sitting in July, as we did on the transportation bill and on Bill C-22? That seems to me to be the sensible alternative, because both houses cannot operate simultaneously.

Senator MacDonald: Senator MacEachen, there are many examples of situations in which both houses have operated simultaneously and to good effect. I think I mentioned one example: the reference of the subject matter of the security intelligence legislation to a special committee chaired by Senator Pitfield. The report of that committee caused approximately 100 amendments to be made to a bill that had been pre-studied. That is often referred to as a great example of the usefulness of pre-study.

Senator Frith: Yes, and we worked all summer long on that.

Senator MacDonald: Some people, I suppose, like this place well enough to hang around here 12 months of the year. I sat on at least one committee that worked last summer. We dealt with fairly simple, straightforward legislation. I remember that Senator Stewart attended those meetings more religiously than most. We could have eliminated the necessity to sit in the summer if we had pre-studied those bills.

Honourable senators, I am not trying to put the onus on anybody. However, I have to say that I get somewhat miffed when I read in the press remarks senators have made with respect to what is going on here, when discussions were never held in the chamber. I do not agree with informal meetings between leaders and deputy leaders on matters such as the referral of the subject matter of a bill for pre-study. I feel it is possible that the recent reluctance to refer the subject matter of this bill for pre-study is largely due to the personality of the leadership of the opposition. I have reason to believe that that view is shared by some senators opposite. If pre-study is dead, and if all Liberal senators agree it is dead, then there is nothing more to be said. However, it is passing strange that something that has been around for so many years and considered to be so useful has now suddenly disappeared from the Senate. I find it very strange.

I do not really have a great deal more to offer, except to say that, without being too much of a nuisance, every time there is a lull in the conversation it is my intention to put forward a motion for the pre-study of a bill. After a suitable interval has elapsed, I shall ask for a vote. If the reasons that are given today are not enlarged upon, unless we hear some new reasons, we shall at least have a record. We shall know that the Senate of Canada is no longer engaged in this practice.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator MacDonald (Halifax), seconded by the Honourable Robertson:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of the Bill C-129, An Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public, in advance of the said Bill coming before the Senate or any matter relating thereto.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

• (1550)

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 "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: Please call in the senators.

• (1600)

The Hon. the Speaker: Let the doors of the chamber be locked.

Honourable senators, it is moved by the Honourable Senator MacDonald (Halifax), seconded by the Honourable Senator Robertson:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of the Bill C-129, An Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public, in advance of the said Bill coming before the Senate or any matter relating thereto.

Motion of Senator MacDonald negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Asselin	Macquarrie
Atkins	Marshall
Balfour	Molson
Bazin	Murray
Bélisle	Nurgitz
Cochrane	Ottenheimer
Cogger	Phillips
Doody	Roblin
Doyle	Rossiter
Flynn	Spivak
Lang	Tremblay
MacDonald (*Halifax*)	Walker—24.

NAYS

THE HONOURABLE SENATORS

Anderson	Hicks
Bonnell	Lefebvre
Bosa	Lucier
Buckwold	MacEachen
Cools	Marchand
Cottreau	Marsden
Croll	McElman
Davey	Neiman
Denis	Riel
Fairbairn	Steuart (*Prince Albert-Duck Lake*)
Frith	
Gigantès	
Grafstein	Stewart (*Antigonish-Guysborough*)
Guay	
Haidasz	
Hastings	Stollery
Hays	Turner—30.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil.

The Hon. the Speaker: I declare the motion lost. Let the doors be opened.

• (1610)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-FIFTH REPORT OF COMMITTEE WITHDRAWN

The Senate proceeded to consideration of the fifty-fifth report of the Standing Committee on Internal Economy, Budgets and Administration, presented on Thursday, June 9, 1988.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I had intended to move the adoption of this report of the Standing Committee on Internal Economy, Budgets and Administration. It deals with supplementary budgets of the Standing Senate Committee on Social Affairs, Science and Technology, but it includes an amount for that committee's examination of Bill S-4, to amend the Hazardous Products Act.

As I recall the situation—and the chairman of the committee can correct me if I am wrong—a package of budget items included some items for activities of the committee about studies that were already under way and therefore did not need any special reference. Those budgets were approved, and then this part dealing with Bill S-4 was included in the package.

Bill S-4 was Senator Haidasz's bill, which has been withdrawn. So I suggest that we adopt the report, making the appropriate deletions of that portion of the budget that deals with Bill S-4. If that suggestion makes sense, I shall ask for

the support of the chairman of the committee. If it does not, then I shall adjourn the matter until we have a report that is satisfactory to him and to his committee.

Hon. Arthur Tremblay: Honourable senators, I would be happy to have the report adopted. However, I would point out that the budget apportioned for the study of Bill S-4, if I remember correctly, was not very significant; in other words, it was a very small budget.

Senator Frith: It was $11,800.

Senator Tremblay: Yes, $11,800. As Senator Frith has just mentioned, there were several matters that were already on the table at the time Bill S-4 was added, and I do not remember that any specific amount was allocated to Bill S-4, but perhaps I am wrong. Perhaps my memory is not serving me correctly.

I agree that we should follow the suggestion of Senator Frith. However, if there are significant amounts relating to the study of Bill S-4, the budget should be corrected accordingly; but I am quite sure that the amount is not really significant.

Senator Frith: Honourable senators, I think the best thing to do is to refer the matter back to the Standing Committee on Internal Economy and ask that committee to amend the report, taking into account the fact that Bill S-4 has been withdrawn. If we do that, it will give Senator Tremblay and his clerk a chance to look at it with the Internal Economy Committee, and we might have it back to the Senate by Thursday afternoon, if there are no problems.

Report withdrawn.

[*Translation*]

TOBACCO PRODUCTS CONTROL

MOTION TO AUTHORIZE SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-51 WITHDRAWN

On the Order:

> Resuming the debate on the motion of the Honourable Senator Tremblay, seconded by the Honourable Senator Kelly:
>
> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine the subject-matter of Bill C-51, An Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products, in advance of the said Bill coming before the Senate or any matter relating thereto.—(*Honourable Senator MacEachen, P.C.*).

Hon. Arthur Tremblay: Honourable senators, if you recall, as the text shows clearly, the effect of the motion I then proposed was to refer Bill C-51 to the Committee on Social Affairs, Science and Technology for preliminary study. This was justified at the time because Bill S-4 had also been referred and, since the subject of the two bills was similar, it seemed to me that they should be considered at the same time.

Now it so happens that this very afternoon we referred Bill C-51 to the Committee on Social Affairs, Science and Technology according to the regular procedure, so that I think this motion can be withdrawn from the Orders of the Day.

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

Hon. Senators: Agreed.

Motion withdrawn.

• (1620)

[*English*]

CANADIAN INTERNATIONAL TRADE TRIBUNAL ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE

MOTION TO AUTHORIZE BANKING, TRADE AND COMMERCE COMMITTEE TO STUDY SUBJECT MATTER OF BILLS C-110 AND C-121—DEBATE ADJOURNED

Hon. Finlay MacDonald, pursuant to notice of Thursday, June 9, 1988, moved:

> That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of the Bill C-110, An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof, and the subject-matter of the Bill C-121, An Act to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain Acts in consequence thereof, in advance of the said Bills coming before the Senate or any matter relating thereto.

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

Hon. Royce Frith (Deputy Leader of the Opposition): No, it is our displeasure.

Hon. C. William Doody (Deputy Leader of the Government): Senator MacDonald, are you going to speak?

Senator Frith: If I can quote you, I believe that this is one of those motions where you are going to be, not too much of a nuisance, just a bit of a nuisance.

Senator Doody: This is the urbane gentleman.

Senator MacDonald: I think we have plowed a sufficient number of furrows this afternoon on the matter of pre-study, so I should like to have the matter adjourned.

Senator Doody: You can adjourn it yourself.

Senator MacDonald: Then I move the adjournment of the debate.

Senator Frith: Even lost causes are entitled to champions.

On motion of Senator MacDonald, debate adjourned.

The Senate adjourned during pleasure.

At 4.45 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Gerald Le Dain, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy 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 Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Excise Tax Act and the Excise Act (*Bill C-117, Chapter 18, 1988*)

An Act to amend the Cape Breton Development Corporation Act (*Bill C-127, Chapter 19, 1988*)

The House of Commons withdrew.

The Honourable the Deputy 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 15, 1988

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

Prayers.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE NOT AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Joan Neiman, 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 at four o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon. Orville H. Phillips: Leave is not granted!

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, in the absence of a motion to the contrary, we shall be sitting tomorrow at 2 o'clock. Looking at the order paper, we seem to have cleaned up most of our business. I wonder what business the government has for tomorrow.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, we have the order paper that is before us. I do not agree with Senator Frith that the order paper is cleaned up. We have pages of items here which have been stood, many of them for a long while. It seems to me that tomorrow might be an appropriate day to deal with some of these, if not most of these.

The business of the government is still ongoing. There are several bills before committees. This would be a great opportunity for those committees to meet. We can adjourn early tomorrow afternoon, if it is not the wish of the Senate to continue with the items on the order paper. The committees can then meet and deal with the various bills before them.

Bill C-52 and Bill C-105 are before the Standing Senate Committee on Transport and Communications. Bill C-77, the emergencies legislation, is before a Committee of the Whole. The victims of crime legislation bill is before the Standing Senate Committee on Legal and Constitutional Affairs. Bill C-103, the ACOA bill, is before the Finance Committee; the railway legislation, Bill C-105, is before the Transportation Committee, and Bill C-115 is before the Legal and Constitutional Affairs Committee.

It seems to me that tomorrow would be a great opportunity for some of these bills to be studied. It would be advantageous to all of us if, on days when there was not much legislation before the house, the Senate could adjourn so that the committees could get on with their work. However, our experience in the past has been that it is sometimes difficult for committees to get a quorum or to continue with their business when the Senate is not sitting. It is unfortunate that we should all have to come back to accommodate the committees, but, in the absence of that endeavour by the committees, I see no alternative.

Senator Frith: Honourable senators, I was asking about government business; I did not hear the Deputy Leader of the Government refer to any government business for tomorrow. Let us deal with that first. There is no reason for the Senate to sit tomorrow as far as government business is concerned.

The next question concerns other items on the order paper. If senators want to deal with business on the order paper that is not government business, I assume they will let us know. I am sure the Senate would be prepared to accommodate them, if there were enough business to justify the Senate's sitting for that purpose.

Most of the intervention by the Deputy Leader of the Government related to committee work. We have been over this road very often and I do not think that we should ever let this go by again: we must link committee meetings with meetings of the Senate. I thought we had made a lot of progress in that direction, and, in fact, I have frequently, particularly in the last year, attended meetings of committees when the Senate was not sitting.

I do not think we should yield quite so readily as the Deputy Leader of the Government would have us—I do not accuse him of doing this in general, but in his intervention today—to the excuse that committees will not meet if the Senate is not sitting and that senators will not attend committee meetings if the Senate is not sitting.

I do not think it is acceptable for senators to raise that as an excuse. Certainly, no senator can raise that with me. Obviously, if the government insists, we are going to be here even if the government has nothing for us to do. And I take it from the intervention that was made that we are all to be here tomorrow for the meetings of some committees. Those committees that have provided for meetings tomorrow, assuming that we were going to sit tomorrow, are Fisheries, Legal and Constitutional Affairs and Internal Economy. The Fisheries Committee is sitting in New Brunswick, and will sit whether the Senate sits or not, I assume—or are we going to carry this to such ridiculous lengths that we will advise them that the

Senate is not sitting so that they will not meet in New Brunswick?

The Legal and Constitutional Affairs Committee will be meeting on Bill C-89; the chairman of that committee just asked for leave to meet this afternoon. Leave was not given; so I assume that committee is eager, to use Senator MacDonald's words, to meet tomorrow.

There is also the Internal Economy Committee. The Internal Economy Committee has often met when the Senate was not sitting, and I know it will tomorrow.

Obviously, however, we are going to be here because the Deputy Leader of the Government has decided that we will sit tomorrow; but I think an objection should be placed on the record every time there is no government business for us, and no indication that anyone else wants to go on with other business, that we should nevertheless sit because we are worried about committees not sitting.

Senator Doody: Honourable senators, first let me say that I am reassured and favourably disposed to the comments Senator Frith has made. The idea of emphasizing to the committees the importance of their meeting, whether the Senate is sitting or not, is reassuring to me. I find that it would make life in this place a great deal more pleasant and far more productive if we could get an arrangement that would guarantee the meetings of committees, whether the Senate is sitting or not.

As honourable senators will appreciate, we have gone a long way down the road towards trying to institute a program of scheduling committee meetings while the Senate is not sitting. We have gone far and beyond anything that was ever done before, to my knowledge, in trying to get that program into place. I have to report that in many instances it has worked; in many instances it has not worked. I have heard—and perhaps I am the only one who has—some honourable senators say, "I am not coming all the way back to Ottawa just to attend a committee meeting."

• (1410)

In any event, if we could have some assurance that the committees would meet and deal with the business before them during the adjournment of the Senate, then I could not agree more with Senator Frith that there would be no need for the Senate to sit. My first obligation is to see that government business is attended to. I note that tomorrow, Thursday, there are no committee meetings scheduled at this point.

Senator Frith: Tomorrow?

Senator Doody: Tomorrow afternoon or tomorrow evening there are no scheduled committee meetings. Correct me if I am wrong.

Senator Frith: I do not know of any.

Senator Doody: That is the problem I have, too. If committee chairmen want to meet tomorrow to deal with government business, the Senate can just as easily not sit. But I just cannot ask the Senate to adjourn so that each individual senator can go about his private affairs while the business of the government is still sitting on the order paper, whether it is before a committee or whether it is dealt with actively in the chamber. If we could get some cooperation from committee chairmen and committee members, then I would be most pleased to accommodate the Senate in that respect.

Hon. Fernand-E. Leblanc: Honourable senators, I just want to add that tomorrow at noon the Steering Committee on National Finance will meet to discuss the order of business of the committee and to decide how to deal with the legislation before us and whom to call as witnesses. That committee will meet whether the house is sitting or not.

Senator Frith: Honourable senators, specifically, I know of three committees that will meet tomorrow. As deputy chairman of the Internal Economy Committee, I know that it will meet tomorrow.

Hon. Jacques Flynn: And there is the joint session of Parliament.

Senator Frith: Yes, and because of the joint session of Parliament the Internal Economy Committee is meeting at 9 o'clock. Is that the reason the Senate is sitting tomorrow? Is it because of the joint session of Parliament that is taking place in the morning?

Senator Doody: I did not say that.

Senator Frith: Senator Doody has not raised that as a reason; so I will not raise it, either.

We know that the Internal Economy Committee will meet; it is my understanding that the Legal and Constitutional Affairs Committee will meet, and Senator Leblanc's committee is going to meet.

Hon. David Walker: That is a meeting of the steering committee.

Senator Frith: So what? What has that got to do with the Senate's being here? It is the linkage of the Senate's sittings with the committee meetings that I think we have to stop. If senators opposite have business for us here tomorrow, of course we will be here. But I think we have to stop blurring the line between reasons for the Senate to sit and reasons for the committees to meet. In this case there is no evidence of any problem with committees that have planned meetings or with committees that want to plan meetings.

Senator Doody: Honourable senators, I am not trying to blur any lines at all. I thought I was being most explicit. If the committees will undertake to meet and deal with government business, then there is no need for the Senate to sit. There is no blurring of the lines there; it is straightforward. I can only quote the experience and history we have had over the past months, which does not support the theory that the committees will meet when the Senate is not sitting. We have tried that over and over again. Sometimes it happens, but we cannot depend upon it. More often than not we cannot get a quorum; this or that person cannot make it and it ends up that the committee does not meet. I would love to correct that situation.

Senator Frith: But there is no evidence of that for tomorrow.

Senator Doody: Well, tomorrow is your exception. Give us a guarantee that we can get the committees to work and we will work out a new deal.

Hon. George van Roggen: Honourable senators, in entering this discussion I am not directing myself to tomorrow but to the question generally. I wish to say, in support of the proposition that the Senate should not have to sit in order for committees to meet, that I have made arrangements for my committee to meet during two full weeks in July—if I could have the attention of the Deputy Leader of the Government.

An Hon. Senator: He has a short attention span.

Senator van Roggen: My staff made arrangements for witnesses, and so on, on the assumption that the Senate would not be sitting in July, as it usually would not be. My hope is that my committee will be able to meet for two different weeks in July in order to deal with the free trade question. We would be doing work in one week that we would normally get done in two months if we were restricted to our allotted spot. I will have to change those arrangements if the Senate will be sitting all the time.

I say that to give you an example of the work that can be planned by a committee if the Senate is not sitting.

Senator Doody: Senator van Roggen, that is music to my ears. It is an absolute delight to know that we will continue with the work of the Senate during the month of July.

It was my hope that the committees would deal with the government business we now have before us and that with some effort and cooperation we could finish what we have before us by the end of June. Those committees that were not finished could continue to meet and the Senate could recess until other business was ready from the other place. Those are the sorts of arrangements I would like to make. Those are the sorts of arrangements I have broached and suggested on several occasions.

Nothing has come back to me to indicate that that is a possibility. We do not have the numbers to enforce what I would consider a reasonable program for the Senate in relationship to its business.

Senator Haidasz: Fill the vacancies!

Senator Doody: If I could create a few vacancies, that would be more appropriate!

If we could work along a line that seems sensible and reasonable, we would all be beneficiaries. Let us work to clear up what we have before us, clue up at the end of June, and come back when there is more business ready for us. That does not seem to be an improper or an impractical suggestion, but I have had no indication that that is acceptable.

Senator van Roggen: I cannot speak for my leader, but as far as my committee is concerned that is the program I am working on.

Senator Doody: We are very pleased to get that report, senator.

[Senator Frith.]

Senator Frith: From whom did Senator Doody understand that that would not be acceptable, that we would be prepared to be here and deal with government business, including the summer?

Senator Doody: I did not say that at all. I said we should clear up what is now on the order paper.

Senator Frith: Let me make this clear. We are willing to work—through the summer, if necessary—if the work is here.

Senator Doody: We are willing to work as well. Please contain yourself, Senator Frith. Do not get exercised now.

Senator Frith: Why not? Exercise is good for you.

Senator Doody: There is no need for us to get overheated. I know we are experiencing an early, humid heatwave, but, nevertheless, we should try to control ourselves.

I have suggested that we work toward cluing up, finishing up, including the business that is before the Senate now, hopefully by the end of June, although perhaps that is not practical, after which we could recess and await further business from the other place. At no time did I suggest that the Senate was not prepared to deal with the business sent to it. At no time did I make that suggestion. However, if the honourable senators are overly sensitive, there is little I can do about it.

Senator Frith: What do you have for us tomorrow?

Senator Doody: There is a whole order paper here.

VISITORS IN GALLERY

STUDENT DELEGATION FROM THORNHILL, ONTARIO

Hon. Peter Bosa: Honourable senators, I wish to draw your attention to the presence in the South Gallery of a delegation of students—Theresa Scaini, Carmen Lopez, and Warren Ho—from St. Robert's Catholic High School, Thornhill, Ontario. They are here to present a petition to Mr. Anthony Roman, the member for York North, on pro-life. This petition numbers approximately 3,500 signatures.

On behalf of honourable senators, I welcome them to Ottawa.

Hon. Senators: Hear, hear!

QUESTION PERIOD

HUMAN RIGHTS

JAPANESE CANADIANS—GOVERNMENT APOLOGY AND COMPENSATION

Hon. Jerahmiel S. Grafstein: I should like to ask a question of the Leader of the Government in the Senate. Yesterday a press report indicated that the Minister of State for Multiculturalism, the Honourable Gerry Weiner, had planned to meet

with representatives of the redress committee representing Canadians of Japanese descent.

In light of the action recently taken by the United States Congress that approved individual compensation to Americans of Japanese descent for acts taken by the American government during World War II, has the Government of Canada now reconsidered its previous policy respecting individual compensation to Canadians of Japanese descent for acts taken by the Government of Canada during and following World War II?

• (1420)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I must confess that I am not aware of the meeting that Senator Grafstein says took place between my colleague, the Minister of State for Multiculturalism, and representatives of the Japanese-Canadian community, but I shall ask my colleague for a report on that matter and have him reply more directly to the general question posed by Senator Grafstein.

PAROLE
PENITENTIARIES

INCLUSION OF AMENDING LEGISLATION IN LEGISLATIVE PROGRAM

Hon. Earl A. Hastings: Honourable senators, my question is directed to the Leader of the Government in the Senate and pertains to a statement made this morning by his colleague the Solicitor General.

I do not know whether it is the Ottawa heat that causes Solicitors General to act in such a bizarre manner, but it seems to be a regular summer occurrence in that portfolio, because the statements by the Solicitor General seem to be a replay of what happened in 1986, when Parliament was recalled.

The Solicitor General announced sweeping reforms this morning to the Parole Act and Penitentiary Act—I submit, in simple surrender to the looney fringe of that party, for political purposes only.

Will these reforms and the bill the minister is to introduce be part of the government's legislative package that must be dealt with by Parliament prior to the summer adjournment?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that would be a matter that my colleague the Deputy Prime Minister would have to address. I am not sure what priority, in terms of the legislative schedule in the other place, these measures would have, but I will make inquiries and see what information I can usefully bring to the attention of the Senate. I cannot forbear, however, to remark briefly upon the honourable senator's preamble.

The reforms announced this morning by my colleague, Mr. Kelleher, the Solicitor General, are, first, to increase the time that all federal inmates must serve before becoming eligible for parole; and, second, to replace the system of earned remission, where inmates can presently receive up to one-third of their sentences off for good behaviour, with a shorter statutory release period.

The honourable senator must surely be aware that these policy changes announced by my colleague this morning are in response to widespread and justifiable concerns on the part of the Canadian people concerning the penal system in this country and their own security.

Senator Hastings: I have a supplementary question. Having regard to the minister's statement that the bill proposes to lengthen the time an inmate will spend in custody, I should like to remind him that it was just two years ago that his government brought forward legislation to lessen the time an inmate spent in custody, and it brought Parliament back from a summer recess to pass legislation that had to be passed, because there were 22 dangerous inmates about to be released.

An Hon. Senator: Right on!

Senator Hastings: The Prime Minister said 44 and the new Solicitor General said 84. It took you four months to find 22, after you had lugged Parliament back here to pass that legislation in the interests of public safety. You now say that you will lengthen the time that we will keep them in custody—"throw away the key" legislation. After you brought us back here two years ago to make the day parole eligibility shorter and the time in custody to be eligible for it one-sixth, you will increase it to one month prior to the eligibility date. In other words, you are going to take a slash at the inmates for your own political purposes.

Senator Murray: Honourable senators, we are going to embark on the first major, overall reform of the system of conditional release in 25 years. That is, as I say, in response to widespread and justifiable public concern about the security of the public. I believe—in fact, I am confident—that the vast majority of the Canadian people will be very supportive of the reforms that were announced this morning by my colleague the Solicitor General. If Senator Hastings wishes to categorize the vast majority of the Canadian public as lunatics, that, of course, is his privilege.

Senator Hastings: Honourable senators, I have a supplementary question. In using that expression, I referred to that fringe of your party; that lunatic fringe that wanted to hang people. That is the fringe that, in my opinion, you are appealing to.

Honourable senators, I have a final supplementary question. A vast majority of the people, in my opinion, would like to see the return of the whip and the stockade. Can we look forward to those items being part of the legislation?

[*Translation*]

CANADA-UNITED STATES FREE TRADE AGREEMENT

REQUEST FOR GRAMMATICALLY CORRECT FRENCH TEXT

Hon. Philippe Deane Gigantès: Honourable senators, I have a question for the Leader of the Government in the Senate. I

understand he may ask to respond later and I appreciate his willingness to provide an answer.

I am referring to page 177 of the French text of The Canada-U.S. Free Trade Agreement, Subsection (e), Paragraph 15 of Article 1904. I tried to understand the meaning of this text and asked legal experts to explain it to me but they too were unable to clear it up for me. Perhaps the Leader of the Government in the Senate might provide me with an explanation. The English version is of little help to me. Here is how the French text reads:

> Chaque partie modifiera ses lois ou règlements de telle sorte que ses tribunaux assurent, au regard de toute personne relevant de sa compétence, la pleine exécution des sanctions que l'autre Partie impose en vertu de sa législation afin de faire respecter les engagements ou ordonnances conservatoires qu'elle accepte ou promulgue pour permettre, aux fins de l'examen par un groupe spécial ou de la procédure de contestation extraordinaire, la communication de renseignements confidentiels, personnels et commerciaux de nature exclusive et autres renseignements protégés;

Perhaps a few grammatical errors make the text somewhat muddled. I would like to have a corrected version.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know if my friend belongs to the French Academy but in any event I accept his comments concerning the so-called grammatical errors in the text.

The honourable senator would know that the text is now before the Standing Senate Committee on Foreign Affairs. I would strongly urge him to bring his questions and comments on the meaning and scope of the text to the attention of the committee. Undoubtedly he will have an opportunity to raise such questions before the people who drafted the agreement or who are responsible for it.

Senator Gigantès: Is the honourable the Leader of the Government in the Senate suggesting that, if an error is found in this clause while the matter is before the Standing Senate Committee on Foreign Affairs, the government will see that it is corrected?

Senator Murray: If the honourable senator is talking about grammatical errors, of course we shall take every measure required to correct such errors in the bill now before Parliament.

● (1430)

[English]

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—SUBMISSION OF PROPOSALS—NAMES OF COMPANIES OR CONSORTIA—FINANCIAL ARRANGEMENTS—NATURE OF PROPOSALS

Hon. John B. Stewart: Honourable senators, I understand that yesterday the government announced that proposals had been received in relation to the project for a fixed crossing in the Northumberland Strait between Prince Edward Island and New Brunswick. I wonder if the minister would undertake to provide the Senate with the names of the companies or consortia that submitted proposals, an analysis of each of the proposals—

Senator Flynn: Order paper!

Senator Stewart: I am sorry; I did not hear the honourable senator.

Senator Flynn: I said, "Order paper!"

Senator Stewart: The honourable senator wants an order paper.

Senator Frith: Give the man a paper!

Senator Flynn: No, no. I am saying that your question should be put on the order paper.

Senator Stewart: Honourable senators, if this were a question about an important project in Quebec, Senator Flynn would be eager to have information given to the Senate.

Senator Flynn: I would put my question on the order paper!

Senator Frith: Come on, Jacques! How many questions did you ever in your life—ever in your life—put on the order paper?

Senator Stewart: However, since my question concerns Prince Edward Island and New Brunswick and the men who fish in Northumberland Strait, he is entirely disinterested. He says, "Order paper."—so that we can get an answer in six months, when it will be irrelevant to the concerns of the people there.

Senator Flynn: Are you basing your experience on the former government's behaviour?

Senator Stewart: Why is he taking up the time of the Senate?

Senator McElman: I see that your sunny personality is back, Jacques. Where were you when we needed you?

Senator Stewart: The Leader of the Government in the Senate is more sensitive to the interests of the people in Prince Edward Island and the fishermen in the area than Senator Flynn is. I ask the Leader of the Government to provide the lists I have mentioned and, also, whether he can tell us—not in great detail, of course—about the kind of financing arrangements set forth in each of the proposals. It would also be useful to know if it is true that only one of the proposals does not involve either a bridge or a causeway segment. As the minister knows, a bridge segment or a causeway segment threatens the fishing industry—at least, many of the people there believe that it does—so it would be helpful to have that information.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall table what information I properly can on that matter, and to that end I shall make inquiries of my colleague, the Honourable Stewart McInnes, Minister of Public Works.

Senator Stewart: I thank the minister for his courteous response.

An Hon. Senator: What do you say to that, Jacques?

Some Hon. Senators: Oh, oh!

The Hon. the Speaker *pro tempore:* Order!

Senator Flynn: At least the leader's response has imposed silence on Senator Stewart.

AGRICULTURE

WESTERN CANADA—DROUGHT CONDITIONS—GOVERNMENT ASSISTANCE

Hon. Joyce Fairbairn: I should like to ask the Leader of the Government in the Senate whether this week we will learn the government's plans for dealing with livestock producers in the drought-stricken areas of the prairie provinces?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know the answer to that question. I shall have to make inquiries.

NON-SMOKERS' HEALTH BILL

THIRD READING—DEBATE ADJOURNED

On the Order:

> Third reading of the Bill C-204, An Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising.—(*Honourable Senator Haidasz, P.C.*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this particular bill is before us for third reading. It has been brought to my attention that there appears to be a real or perceived difficulty with the wording of the bill. In that light, perhaps it would be in the best interests of the Senate, and of this piece of legislation, if we were to hold it here and not give it third reading until such time as the committee reports back with Bill C-51.

Bill C-51 and Bill C-204 are very much related. Indeed, on page 7 of Bill C-204 honourable senators will find that subclause 9(2) is a conditional amendment that depends on the passage of Bill C-51. It seems to me that we would be better served by awaiting the arrival of Bill C-51 and seeing how the Senate wishes to deal with it.

I am also told that there are some other, minor difficulties with the bill, and, although they may not be all that important, I still feel that, in the interests of our turning out a proper product, it might be wise to take our time and give it some thought.

Also in clause 9, reference is made in subclause (1), Schedule I of Part II, which would add No. 5 to the schedule.

> 5. Products manufactured from tobacco and intended for use by smoking, inhalation or mastication . . .

However, I am told that that will not be the wording of No. 5, because several other products have been added to the hazardous products list by Order in Council; rather,this may bear a closer resemblance to No. 40 or No. 41.

In any event, I think it would be in the best interests of the proper form of this legislation if we were to hold out until such time as the Standing Senate Committee on Social Affairs, Science and Technology has had an opportunity to deal with Bill C-51.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the desire to have this bill not passed now because of difficulties with its wording or its linkage with Bill C-51 has me somewhat concerned; I hope that concern is misplaced.

The Deputy Leader of the Government was courteous enough to tell me that he had received some information concerning difficulties with this bill. He did not outline here all of the difficulties he mentioned when he spoke to me. They apparently involve some problems that departments have with the wording of some of the proposed sections.

Although I have not done a lot of deep research into this subject, I have an interest in it, as honourable senators know, and I recall that this bill did undergo a clause-by-clause study in the other place and that many of the proposed sections were actually written by government departments—the same departments that are now concerned that the bill ought not to pass because the wording is not correct. Apparently, in many cases they are worried about the wording that they themselves proposed and had passed in the clause-by-clause study in the other place.

Then, honourable senators, I link that with, admittedly, a rumour that certain persons and lobbyists opposing this bill have been assured that the bill will not pass.

An Hon. Senator: Oh, oh!

Senator Frith: If I link the fact that many of these departments are now saying we should wait and not pass this bill until we satisfy ourselves of some concern about the wording—the very departments who were involved in the clause-by-clause consideration—with the fact that it is well known that there are persons of political influence who do not want this bill to pass, I am concerned that someone might be trying to put something over on the Deputy Leader of the Government, because I know he would not try to put anything over on us.

Senator Steuart: Never!

Hon. Jacques Flynn: This is not your bill; this is a private bill.

Senator Frith: Perhaps Senator Flynn would explain that remark.

Senator Flynn: Senator Frith seems to think that this is the bill put forward from his side of the chamber.

Senator Frith: I never said that.

Senator Flynn: Senator Frith mentioned "onus".

Senator Frith: I said, "on us"—on the Senate—including Senator Flynn.

May I proceed? Please feel free to raise other points, especially if they are as silly as that one.

Honourable senators, I raise these points now because Senator Doody has told me that, when Senator Haidasz moves third reading, he plans to ask for an adjournment.

If you will pardon the pun, I think there may be something that we might want to smoke out, in terms of this sudden desire to have this bill not go forward, especially for the kinds of technical reasons that have been advanced to the Deputy Leader of the Government. I draw that to the attention of all senators so that they will see what is being proposed and keep their eyes on what I hope is the objective: namely, to pass this bill and pass it soon. I hope that it will be passed as early as next week. That, mind you, would be a reason for sitting tomorrow.

• (1440)

Senator Doody: Honourable senators, I do not want to leave anybody under any misapprehension in this regard; the only person who approached me regarding this particular bill was the Law Clerk of the Senate.

Senator Murray: Senator Frith should listen to this.

Senator Doody: I was not approached by any outside interests. I am not at all interested in delaying, stalling or defeating this bill. The more we do to discourage smoking, the happier I will be. I am not a smoker.

I simply want to reinforce what has been said by honourable senators opposite on many occasions—that is, that it is the Senate's job to try to get a piece of legislation as close to perfection as it can make it. If it is the wish of honourable senators opposite to pass this bill now in its somewhat imperfect form, there will no objection from me. Let it go and let posterity worry about it. It does not bother me at all. I have not been influenced by any skullduggery or back-room manipulation.

Senator Frith: No, and Senator Doody would not be. That is my point.

Hon. Stanley Haidasz: Honourable senators, in accordance with the rules of this house, I now move third reading of Bill C-204.

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator Haidasz, seconded by the Honourable Senator Guay, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Senator Flynn: Honourable senators, I should like to move the adjournment of the debate.

Senator Frith: Where there's smoke there's fire!

Senator Flynn: I want to have an opportunity to look at the silly statements made by Senator Frith.

[Senator Flynn.]

Senator Frith: There is a little seepage there. It stung, did it?

Senator Perrault: You can smoke the peace-pipe with Senator Frith.

Senator Flynn: I am not ready to smoke the peace-pipe with Senator Frith yet.

On motion of Senator Flynn, debate adjourned.

CANADIAN ENVIRONMENTAL PROTECTION BILL

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Energy and Natural Resources (Bill C-74, respecting the protection of the environment and of human life and health, with certain amendments), presented in the Senate on June 14, 1988.

Hon. Earl A. Hastings: Honourable senators, as chairman of the Standing Senate Committee on Energy and Natural Resources, I rise to move the adoption of the report on Bill C-74, respecting the protection of the environment and of human life and health.

Your committee has, in obedience to the Order of Reference of Wednesday, June 1, 1988, examined the said bill and has agreed to report the same with the following three amendments:

1. *Page 5, clause 6:* Strike out line 42 and substitute the following therefor:

"paragraph 34(1)(*a*), (*b*), (*c*), (*d*), (*o*) or"

This amendment corrects a typographical error introduced when the bill was reprinted and passed by the other place.

The second amendment is:

2. *Page 40, clause 52:* Strike out lines 21 and 22, and re-letter the subsequent subparagraph accordingly.

In testimony before the committee, representatives of the Grand Council of the Crees of Quebec and the Cree Regional Authority advised that lines 21 and 22 were introduced in the other place as one part of a two-part amendment which they had proposed. The first part of the proposed amendment added Category 1A lands as defined in the Cree-Naskapi (of Quebec) Act to the definition of federal lands. This change was accepted and appears as lines 21 and 22.

The second part of the proposed amendment would have required the federal government to seek the concurrence of the appropriate Cree band before regulations made under authority of Bill C-74 could be applied to their land. The government is not willing to accept the second part of the amendment, as confirmed by the Minister of the Environment when he appeared before the committee. Because he will not accept the second part of the amendment, the Cree representatives have requested that reference to Category 1A lands be deleted from the bill. Your committee asked the minister at the time of his appearance before the committee if he had any objection to deleting the above-mentioned lines, given that the government

was not prepared to accept the other part of the amendment. He responded:

> I am inclined to agree with the implication of your question that without the one, the other should be left out."

By deleting lines 21 and 22 the bill is returned to its original wording, before the amendment to the definition of "federal lands" was made.

The third and final amendment is:

> 3. *Page 92, clause 149:* In the French version, strike out line 10 and substitute the following therefor:
>
> "fixées par proclamation."

This amendment is needed because the mechanism for bringing the bill into force in clause 149 is not the same in the two official languages. The government has decided that the mechanism should be by proclamation, since that was the procedure in use at the time the bill was drafted. Therefore, the French version needs to be amended to correspond with the English version.

Honourable senators, with these three amendments, the committee has completed its study of Bill C-74 and reports these changes for your consideration.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, that this report be now adopted?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this bill, as amended, be read the third time?

Hon. Brenda M. Robertson: Honourable senators, I move that the bill be read the third time now.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, if there is no Royal Assent scheduled, is there a reason for doing this today?

Senator Robertson: Then I move that the bill be read the third time at the next sitting of the Senate.

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

CANADIAN INTERNATIONAL TRADE TRIBUNAL ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE

MOTION TO AUTHORIZE BANKING, TRADE AND COMMERCE COMMITTEE TO STUDY SUBJECT MATTER OF BILLS C-110 AND C-121—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator MacDonald (*Halifax*), seconded by the Honourable Senator Walker, P.C.:
>
> That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of the Bill C-110, An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof, and the subject-matter of the Bill C-121, An Act to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain Acts in consequence thereof, in advance of the said Bills coming before the Senate or any matter relating thereto.—(*Honourable Senator MacDonald (Halifax)*).

Hon. Finlay MacDonald: Honourable senators, it seems like a pleasant and warm afternoon to return to the subject of which we are all so fond, the matter of pre-study of bills. I do so today because Senator Frith was kind enough to respond almost immediately to my motion the other day.

Senator Frith: I can respond even more immediately to this one.

Senator MacDonald: However, I suspect that Senator Frith may have to wait, because Senator Hicks spoke to me yesterday, saying, "If you are going to speak again on pre-study, will you let me know in advance so that I can have another crack at it?"

Senator Frith: So you said, "Get in line!"

Senator MacDonald: I said, "You will have to stand in line."

Honourable senators, I think Senator Frith did a first-class job in dissecting my remarks in support of my arguments to prove the case in the first motion. In my naivety I thought that by acknowledging the demerits of the pre-study technique I would clear the decks for some form of compromise; but I can assure honourable senators I shall never make that mistake again. Let me begin by again reminding Senator Molgat, Senator Leblanc, Senator Lewis and Senator Langlois of that which they recommended in 1984, as members of the Joint Committee on Senate Reform.

Senator Perrault: You are not living in the past now; you are living in the present.

Senator MacDonald: This most useful arrangement, they say, gives the Senate legislative input without formally amending the bill and without risking confrontation.

Senator Steuart: We changed our minds.

Senator MacDonald: This procedure, they went on to say, was developed during the last 16 years in order to overcome some obstacles that prevented the Senate from accomplishing its legislative review role.

Senator Frith certainly grasped my acknowledgment that it is a basic principle of British parliamentary procedure that bills be dealt with consecutively by both houses. He not only grasped it, he chewed it to death—

Senator Frith: Apparently not, because you are still at it. It is not dead yet.

Senator MacDonald: But what I tried to point out was that this theory, this tradition, was developed in the historical context of a relatively balanced bicameralism.

In 19th century Britain most cabinet ministers sat in the House of Lords and therefore a substantial proportion of non-financial legislation could be introduced there. In our times the Senate of Canada—like the British House of Lords—has been reduced to a reactive role. Bills are most often introduced in the House of Commons and therefore the Upper House has had to deal with a proposal that has secured the support of the elected representatives of the people. The House expects quick approval of these bills—something which I realize is not of tremendous relevance to members of this chamber—but they are often sent to the Senate in the final days of a session. This is where I am going to make my main point today. The Senate is expected to adopt them quickly and without change. I make no comment on that. I make that as a statement of fact. In any event, adequate consideration of bills is often made difficult—if not impossible— by their late arrival from the Commons, and they appear before the Upper House in the dying days of a session. You will remember the remarks of Arthur Meighen: "It is little less than a travesty", he said, "that this chamber, prepared for work, ready to serve the people of this country, should be compelled to wait more or less idly for weeks, perhaps months, while discussions, which are no doubt necessary under any democratic system . . ." take place.

It is also trite to say that members of the House of Commons tend to react negatively—trite to say—when the Senate amends legislative measures that are sometimes the product of inter-party bargaining in the House. At this late stage it is likely that the positions have so much hardened that little room is left for compromise. I suspect that that is not only the case between this house and the other place; I suspect at times there is not enough scotch whiskey in the world to make it easy to cut a deal or to accommodate the position of one another.

Senator Frith: Has it ever been tried?

Senator Doody: I have got a wonderful thirst.

Senator Frith: It is worth a spirited attempt.

Senator MacDonald: Pre-study was born in this context. This device allows the Senate to undertake the detailed study of a bill while the House of Commons is still discussing the merits thereof. This can be done by referring to a Senate committee not the bill itself, as we know—for the bill has been introduced in the other place and, being studied there, has not been officially transmitted to the Senate—but, rather, the "subject-matter" of the bill. That is what is examined.

Under this guise, the Senate committee short-cuts the decision of the House of Commons and comes up with a list of detailed amendments to the bill, if necessary. The list is included in the report of the committee that is tabled in the Senate by the chairman of the committee. Officially, this document is never transmitted to the House or to the committee of the House to which the bill has been referred. If members choose not to read the Senate *Hansard*, they will ignore the report. In practice, it is expected that the members of the relevant committee of the House will read the report and will adopt as theirs some of the suggestions of the senators. Should that be the case, there will be no necessity for the Senate to suggest amendments through the formal channels or even, arguably, to study the bill anew in a Senate committee.

• (1500)

I conclude by making reference to the very useful book written by Robert McKay, entitled "The Unreformed Senate", which was revised in 1963. As an aside, I remember a pre-study "epidemic", as it was referred to by one member, in 1971, although its genesis was really some time during the Second World War. At any rate, this is an extract from the revised form of the book, in which it is stated:

> The practice—

that is, pre-study

> —is, of course, quite informal and is not regularly followed—

This was in 1963.

> —but on occasion has proved useful.

In light of the recommendations of the joint committee, taken along with the fact that this particular practice has proven to be widespread and useful, I suppose that the question I put to whomever wishes to respond—and I assume it is Senator Hicks—is this: Does he, in speaking for himself or for other members opposite, ever see the possibility that we could, as the session comes to an end, see the benefit of referring the subject matter of a bill for pre-study to an appropriate committee? Or is the Laird of Lake Ainslie—

Senator Roblin: Who is he?

Senator MacDonald: —to have such a disciplinary effect upon his colleagues that no possibility for compromise exists to ease the passage of legislation?

Hon. Henry D. Hicks: Honourable senators, Senator MacDonald has gone a little too far in anticipating the view that I was going to take of the motion to which he has just finished speaking. I am not categorically opposed to the pre-study of legislation. By no means. But before I come to my conclusion I should like to make a not too extended reference to the past history of this practice.

I know that it was not initiated in relation to this chamber by Senator Hayden, but when I first came here in 1972 it was Senator Hayden, as chairman of the Standing Senate Committee on Banking, Trade and Commmerce, who most often made use of the device of pre-study of legislation or the subject matter of legislation before it formally came before the Senate. He had the further practice of conferring with the minister in the other place responsible for the legislation, oftentimes securing the agreement of that minister that certain amendments ought to be made. The minister would then take those back while the bill was still in committee in the other place. Sometimes—perhaps I could even say often—those amendments were accepted and made by the House of Commons.

That practice undoubtedly improved legislation and probably sped up the legislative process. I suppose the thing that some of us did not like about it was that the improvements in the legislation—and normally they would be counted as

such—were not made by the Senate, which had really done the work, discovered the errors and determined upon the method to remedy them, but were done in the House of Commons. The Senate, of course, was not acknowledged as having played any effective role in this improvement of legislation. However, that in itself, in my view, was not enough to have stopped the pre-study of legislation. It is quite true that we in the Senate could have dealt with the matter in a different way. After our committee had done its pre-study, we could have insisted that the report of the committee come back and that the amendments be made here in the Senate rather than through some agreement with the minister concerned. But that is a trifling matter.

Where, in my view, did the situation get off the rails? First, I insist that the parliamentary routine normally regarded as the usual process for dealing with legislation—and which has been referred to *in extenso* by Senator Frith in his remarks of yesterday and at other times—should be followed; that that is the process by which legislation becomes law; that one house deals with it and passes it on to the other house, which then deals with it. That second house, upon receiving the bill, ought not to be curtailed or trammelled in any way in the handling of the legislation according to its normal procedure. Therefore, in my view, if we consent to the pre-study of any legislation—and even if one of our committees works on it for a week or a month, or three months in the extreme, that should still have no bearing on the ability of this house to refer the legislation, after it has received second reading, to that same committee, or any other committee, in accordance with the rules of this house.

Honourable senators, I suppose what triggered our annoyance or disaffection with the pre-study procedure was the very strong, almost vehement, assertion of the present Leader of the Government in the Senate on a previous occasion that because a committee of this house had pre-studied legislation there was no reason for it to be referred, after second reading, back to a committee. I want to make the point that I think that argument is not acceptable and I hope it will never be made again in this house. In any event, I would never consider myself bound by such a proposition.

The point I really want to make, Senator MacDonald, is the point I have already made, that I am not opposed to the pre-study of legislation. I am violently opposed to the proposition that because legislation has been pre-studied we have precluded our right, or even our duty, to refer the legislation to the same or to some other committee, in accordance with our rules, after it has received second reading. I agree with the observation that the late R.A. MacKay made in his book "The Unreformed Senate" in 1953, and I think there may well be occasions when the pre-study of legislation does save time and avoid that—what shall I say?—pile-up of legislation during the last few days prior to an agreed-upon adjournment of the House.

Honourable senators, I have made my point. I do not categorically oppose the pre-study of legislation. I do think that the arguments advanced yesterday in relation to Air Canada and the arguments which might apply to the free trade legislation in respect of pre-study are arguments which stand on their own. I would not support going into a pre-study, for example, of the free trade legislation at this time, when it is already receiving as much attention as the Committee on Foreign Affairs can give to it, albeit in another form or in another context. I repeat, then, that I am not categorically opposed to the pre-study of legislation, but I do want to make strongly the point that pre-study does in no way preclude subsequent reference of the legislation, after second reading, to a committee—either the same or any other committee—in accordance with the rules of this house.

On motion of Senator Frith, debate adjourned.

[*Translation*]

THE ESTIMATES, 1988-89

REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the twenty-third report (Interim) of the Standing Senate Committee on National Finance (Main Estimates, 1988-89), presented in the Senate on June 7, 1988.—(*Honourable Senator Leblanc (Saurel)*).

Hon. Fernand-E. Leblanc: Honourable senators, I should like to give some explanations regarding the interim report of the Committee on National Finance on the Main Estimates, 1988-89.

Whenever the committee proceeds with consideration of the Main Estimates, it follows the standard procedure that has been in place for ten or fifteen years. It first hears the President of the Treasury Board and subsequently holds a series of meetings covering a particular theme. This year the committee chose to examine the spending estimates of the three research granting councils, particularly in the context of the matching grants program announced by the federal government in 1986. The committee's report on this question will be tabled very shortly. The report I shall be discussing today deals only with the Estimates in general.

The President of the Treasury Board indicated to the committee that the government expected to spend a total of $132.3 billion. Of this, the government has identified $119.4 billion in the Estimates, representing a 7.7 per cent increase over the previous fiscal year. The remaining $12.9 billion is reserved for supplementary expenditures and other provisions.

Some committee members said they were concerned about the difficulty experienced by the government in reducing the annual deficit, when so much of the annual estimates were taken up with statutory expenditures. Mr. Mazankowski stated that many of these items were destined for programs such as social assistance, income security and the fiscal transfers to the provinces. He added that while there had been extensive review of these statutory expenditures in recent years, it was very difficult to consider changes to them because, as he acknowledged himself, "they have become a way of life and are part of the Canadian tradition of sharing".

The committee is aware of the problem but maintains, considering current revenues and expenditures, that it may be difficult to reduce the annual deficit from its current level of $28.9 billion to the projected $19.5 billion by 1992-93.

Committee members took this opportunity to remind the government of its past observations about the incompatibility of the legislative requirement of annual appropriations with programs with uncertain timing of expenditures. The committee commented on this problem in its thirteenth report, when it reviewed the overexpenditure by the Department of Regional and Industrial Expansion in Supplementary Estimates (B), 1987-88. The committee raises this point in its current report to remind the government of this important fact and to indicate that it will watch for and report on instances where legislative compliance and annual appropriations may not necessarily provide satisfactory results.

• (1510)

[*English*]

OFFICIAL LANGUAGES

FIFTH REPORT OF JOINT COMMITTEE WITHDRAWN

On the Order:

Consideration of the Fifth Report of the Standing Joint Committee on Official Languages (Calgary Olympic Winter Games), presented in the Senate on 17th December, 1987.—(*Honourable Senator Guay, P.C.*).

Hon. Joseph-Philippe Guay: Honourable senators, if you will allow me, I should like to withdraw this report.

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

Hon. Senators: Agreed.

Report withdrawn.

TRADE PROPAGANDA

NATURE

Hon. Philippe Deane Gigantès rose pursuant to notice of Tuesday, June 7, 1988:

That he will call the attention of the Senate to the nature of trade propaganda.

He said: Honourable senators, the other day in Question Period we were discussing the amount of money that had been spent to sell the Free Trade Agreement. The Leader of the Government in the Senate said that this was not another one of those Liberal exercises with all those Canada geese. He was perfectly right—we could not use the Canada geese, because they have been plucked and they would not be photogenic.

Senator Perrault: They can not fly any more.

Senator Gigantès: Honourable senators, at this time I am not addressing myself to the substance of the Free Trade Agreement but to the tactics in that huge propaganda campaign. That campaign is allegedly a campaign to inform the public of Canada, but it only gives one point of view.

The Research Branch of the Library of Parliament has produced a document that gives both sides—pro and con—on every issue. They quote people by name and say where they can be found. However, the government documents that are being used in this campaign are not evenhanded. They are documents that contain propaganda. Good propaganda consists of the truth, nothing but the truth, but never the whole truth.

I received a document in a brown envelope. On the cover page it says: "For Official Use Only, No. 010288", and is entitled "Canada-U.S. Free Trade Agreement—Questions and Answers Based on the Legal Text, revised February 1988." This is an excellent example of propaganda. It gives only one side of the issue. It slips over various other aspects which are equally legitimate and which the people of Canada are entitled to know. For instance, on page 9 it states:

• (1520)

> Why is the deal on fisheries important for Canadian fisheries? The agreement is a substantial improvement in terms of market access available to Canadian fish exporters. It limits the ability of the U.S. to impose import controls on Canadian fish, and the dispute-settlement process will reduce the harassment of the industry.

Senator Cogger: That is fact, that is not propaganda!

Senator Gigantès: It is the truth, nothing but the truth, but not the whole truth. The whole truth is that, after the binational dispute-settlement mechanism, any American entrepreneur who does not like the dispute-settlement mechanism answer can go to court. It is stated in the U.S. Constitution; it is a right that cannot be withdrawn. The harassment will continue.

On "Automotive Rules of Origin", page 11, it states:

> Changes in the general provisions of the agreement regarding rules of origin will result in a tightening of the elements which can be counted towards domestic content, resulting in a greater incentive for the sourcing of North American parts.

The truth, nothing but the truth, but not the whole truth. The whole truth is that we wanted 60 per cent.

Senator Cogger: The whole truth is only found in the Bible.

Senator Gigantès: The whole truth is that we wanted 60 per cent North American content; the U.S. Big 3 wanted 50 per cent, because with 50 per cent they can manufacture a car here, the engine and the electronic parts of which—all the technology and heavy parts—are made offshore. What they make here are the body, the upholstery, the glass and the tires. We have become technological appendages of Japan and the mini-Japans. It is not said in the government propaganda document I am quoting that we did not want the 50 per cent. We wanted 60 per cent, but did not get it.

Senator Cogger: The truth and nothing but the truth!

Senator Gigantès: There is another passage on page 20, which states:

> Canada has obtained duty-free and more secure access to the United States market for agricultural and food products such as potatoes.

We have obtained access, but what does the access mean when the manager of the Winnipeg McCain plant states that he can get potatoes from Washington State for $92 a tonne and Canadian potatoes for $120 a tonne? How will we sell $120-a-tonne potatoes to the Americans, when they can grow them for $92 a tonne and deliver them?

Senator Cogger: What was that?

Senator Gigantès: The book says that you will have more access for potatoes. I say that, since American potatoes are cheaper to grow and deliver, you will not have more access in the U.S. for Canadian potatoes; you will have more access in Canada for U.S. potatoes.

There was an interesting article in *Maclean's*—and I do not have the date, but I can find it for you—in which Mr. McCain, of McCain Foods, is giving an interview to Peter Newman. He states:

> —in the case of this particular deal, I'd have to say, "Don't dupe us in the food industry."... At the moment, the Americans are not allowed to ship their cheese into Canada, but with free trade, they'll be selling their pizzas here duty-free. How do we buy cheese in Canada at 39 per cent more and still be competitive? We can't be. And we have exactly the same problem with our frozen dinners because of chicken marketing boards, and so on.
>
> What would be the company's future inside a free trade area?

asks Mr. Peter Newman. He goes on to say:

> Harrison McCain didn't want to be that specific, but he recently sent a private letter to New Brunswick Premier Frank McKenna in which he pointedly explained that, if economic factors were to make his plant's continued presence in the province untenable, "we're a multinational and have other options—unfortunately our employees and growers don't."

That completes the picture and gives the full truth; the propaganda document I have in my hands does not.

There are other instances, but I will not give you the whole of it, because propaganda gets to be tiresome.

Our government provided health care and hospital facilities covered under the services chapter of the Free Trade Agreement. It states here that the only aspect of health care potentially included is "management services, such as specialized computer software applications, which could be commercially provided . . ." and so on.

What about private health insurance? What about U.S. insurance companies or U.S. practitioners coming to Canada to establish here branches of their U.S. hospitals, such as the Humana Chain, which pays its chief executive officer $17 million a year in salary?—it is a very profitable business. They will come here and want to finance this through private insurance. Of course, it will be expensive and will be for the rich who can afford to pay this private insurance, but where will the best doctors go? They will go where they will be paid an awful lot. Where will the best nurses go?

We happen to have a medical saint in this chamber. This is a remarkable physician. Unfortunately, they are not all like him. All the physicians in this chamber are remarkable physicians; all the lawyers are remarkable; and all the other senators are remarkable, and honest and angelic—I love you all. The one good thing I know about a non-elected Senate is that I will not risk losing such good people on either side of the house in an election. I am glad you are here.

There is absolutely nothing in this agreement to stop a U.S. hospital service from coming here. Mr. Peterson has passed laws to try to stop it, because it cannot be stopped in the agreement. That is not mentioned to the public.

Is there support for this sort of thing in Canada? Of course there is. The Quebec chamber of commerce has just passed a resolution suggesting that Medicare should be privatized, or that, if Medicare is not privatized, a special service through private insurance should be allowed for the rich. Mrs. Thatcher has followed that course and has gutted the British health service.

Let us pass to financial institutions. First, in this Free Trade Agreement we allow five separate Americans to buy 10 per cent each of a Canadian bank, and they say that ". . . we need American investment dollars because they will also be an important source of funds in order to increase the size and specialization of various Canadian firms," and so on.

Felix Rohatyn is the senior partner of Lazard Freres, a major merchant bank. He is an astute man who was called upon to save New York from bankruptcy. He states:

> More than two hundred years after the Declaration of Independence, the United States has lost its position as an independent power.

This was written in the *New York Review of Books* in February of 1988.

I continue the quotation. It is because of the—

> . . . rapid rise in the level of U.S. assets owned abroad . . . Those assets . . . may consist of . . . controlling interests in many of our major companies and financial institutions . . . Should we allow SONY to acquire control of Time Inc.?—

But they want to be able to buy our newspapers—

> . . . Would we allow . . . foreign control of the Morgan Bank?—

This is Mr. Rohatyn expressing shock at the idea that a foreign power might own a U.S. financial institution:

> . . . We must be able to carry on our business whether or not it is in Japan's interest . . . or . . . in Europe's interest . . . No other major industrial power . . . certainly not Japan, and not even Great Britian allows major companies of strategic importance to be acquired by foreign

> interests . . . A highly selective review mechanism may become necessary—

He is asking for FIRA for the United States!

> . . . this would not cause the flight of foreign capital any more than such procedures have caused capital flight from the U.K., Germany or Japan.

That is another part of the truth. The acquisition of key industries and key financial institutions in Canada worries some people. In fact, a similar danger worries Americans. However, a propaganda document does not tell you all the truth; it only tells you part of the truth—it does not tell the truth, the whole truth and nothing but the truth!

Again, let us come back to the geese. I understand our goose has been plucked, and we cannot really use it any more in television commercials; it would look rather ugly.

The Hon. the Acting Speaker: Honourable senators, if no other honourable senator wishes to speak, this inquiry is considered debated.

REPRODUCTIVE TECHNOLOGY

NEED FOR ROYAL COMMISSION—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, inquiry No. 5 stands in the name of Senator Spivak. When that inquiry was called, I inadvertently asked for it to stand. It is Senator Spivak's desire to address this inquiry this afternoon, if the Senate will permit. Honourable senators, I ask for your indulgence.

Hon. Senators: Agreed.

Hon. Mira Spivak rose pursuant to notice of Wednesday, June 1, 1988:

> That she will call the attention of the Senate to the need for a Royal Commission on Reproductive Technology.

She said: Honourable senators, I rise to speak on this issue in this chamber in support of the call for a royal commission by a group of concerned Canadian citizens, the Canadian Coalition for a Royal Commission on New Reproductive Technologies, and to outline some of the reasons behind such a call.

Senator Gigantès: Too late for some of us!

Senator Spivak: A profound change in the way we think about conception, motherhood, fatherhood, parenthood, and, indeed, the nature and value of human life itself is under way as a result of the development of new reproductive technologies. These have moved forward with astonishing speed since a decade ago, when the world was stunned by the first test-tube baby.

Moreover, reproductive and genetic engineering could radically alter human life as it is known today. What we are seeing is nothing less than a revolution in reproduction. For example, reproduction can now include at least three parties rather than the normal two.

[Senator Gigantès.]

These developments, which involve fundamental, moral and ethical decisions, as well as major resource decisions, are occurring without benefit of public debate, without understanding of their broad social implications and without benefit of a philosophic framework to guide decision-making.

The technologies of which I speak include: artificial insemination; in vitro and in vivo fertilization; frozen embryo storage and transplants; fetal tissue transplants; cloning; prenatal screening techniques and sex selection and preselection. In vitro fertilization—the technique that produces what has been known as "test-tube babies"—involves increasing egg production through large doses of hormones, removing them, fertilizing them in a lab dish with the spouse's sperm, and then re-implanting the fertilized eggs several days later. Usually four or five fertilized eggs are re-implanted to increase the chance of a successful pregnancy. At some clinics the remaining embryos are frozen in liquid nitrogen for use at a later date.

In vitro fertilization has produced multiple births, babies from donated eggs, babies from frozen embryos, babies from frozen eggs and babies whose sex was preselected. In vivo fertilization involves the removal of a fertilized egg from a woman and its re-implantation or its implantation in another woman. In embryo transfer an ovum is conceived in one woman and then transferred to the womb of another woman, or a donor ovum is conceived in vitro and then implanted in another woman.

There is rapid, unchallenged and largely unregulated growth in the research and marketing of these technologies in Canada. The first sex selection clinic in Canada, run on a private franchise basis, opened in Toronto in the fall of 1987. People can now choose the sex of an embryo before fertilization and they can identify the sex of an existing embryo. Canada now has 12 IVF clinics. The work being done in these clinics is highly experimental; the success rate is around 10 per cent. The Government of Ontario—the only one in the world to finance IVF clinics—has spent more than $7 million in two years on four clinics. During that time more than 200 babies have been born, at a cost of $35,000 per baby. Factors spurring these developments include the growing incidence of infertility in our society and, as usually justified by those involved in fetal research, the desire to offer improved life prospects to defective fetuses and to maintain existing medical standards of prenatal and postnatal care of mother and child.

With respect to the problem of infertility, the attention of the medical and scientific community is focused on dramatic treatment, and not as much thought is being given to the prevention of infertility. For example, to what extent is infertility a product of other interventions in the reproductive process, such as the pill and the intrauterine device? The new technologies themselves create complications which then give rise to further dramatic measures. A case in point is pregnancy reduction, in which, through recent advances in ultrasound technology, a woman carrying multiple fetuses can have one or more of those fetuses eliminated while letting the rest survive. This procedure is being carried out for women who, through in

vitro fertilization or fertility drugs, become pregnant with more fetuses than can be safely carried to term.

In those countries that regulate fetal experimentation it is generally subject to strict conditions of purpose and time. For example, a 1982 provision of the British Medical Research Council restricted this research to that which is clearly defined and directly related to clinical problems and which is conducted within six weeks of conception—the time period during which the council posits that the fetus can feel no pain. The United States Ethics Advisory Board has limited such research to 14 days from conception and to purposes designed primarily to establish the safety and efficiency of embryo transfer. Only a few weeks ago the Medical Research Council of Canada issued guidelines on genetic and embryo research. However, the council has no authority over scientists who are not receiving federal grants for their research.

Many as yet unaddressed questions are raised by the new reproductive technologies. With respect to the treatment of infertility, are such painful, uncertain and costly measures as in vitro fertilization and embryo transfer preferable to adoption and to the more successful and less expensive, less dangerous and less invasive procedure of artificial insemination by donor? Do people in our society have an inalienable right to be parents? If so, which people have this right: Those who can afford treatment? Unmarried women? Who should bear the costs of reproductive processes? How important is it for children to be genetically related to parents? Is a genetic link to the father important enough to justify the practice of buying reproductive services from surrogate mothers? Can the human body, or any of its parts, be treated as the subject matter of a contract? What are the legal consequences of "donating" human ova or sperm? What is the legal effect of consent agreements that are executed in the course of these transactions? If the recipient of donor gametes is married, what is the legal status of that spouse? What constitutes the family? A child conceived through a variety of artificial reproductive technologies can have as many as five different "parents": the sperm donor, the egg donor, the gestational mother and the parents who rear the child.

Prenatal diagnosis now allows us to identify the sex of the fetus, to diagnose in utero all recognizable chromosome disorders, over 100 biochemical disorders, and many selected developmental malformations, and to manage pregnancy based on this information.

What are the overt and covert purposes of such diagnoses? What are their implications? Who has access to these services? Are patients informed about the risks to themselves and to the fetus? What values, and whose personal, ethical and social values, guide decision-making in this context?

• (1540)

Although we have, as individual members of our society, considered reproductive processes to be largely a private matter, there is growing medical, legal and social control of reproduction as a result of these scientific advances. Since procreation is ultimately a social function, it is inevitable that society will establish qualitative and quantitative forms of control over it. Unfortunately, the speed with which these advances are being adopted into clinical practice has allowed little time to consider many of the important moral, legal and ethical issues that have arisen in human reproduction. We have not determined the purposes of these services, whom these services are really for, who benefits from them, the values underlying the allocation of these services and whether they constitute a just allocation of medical funds, personnel, resources and facilities.

The issues raised by the new techniques are of great consequence to our society and are deserving of immediate attention, not only by the providers of these services but by all who have an interest in the kind of society we want today and in the future. To attempt to resolve these issues through ad hoc legislation, though it may be useful in dealing with uncertainties and gaps in our existing legal framework, is to risk creating new social problems. To attempt to resolve these issues through hasty, comprehensive legislation is to risk insidiously sheltering other controversial reproductive technologies and prematurely crystallizing the implications of modern medicine before basic notions of morality, law and life have been the subject of at least relative consensus. To attempt to resolve these issues on a case-by-case basis is to prevent the formation of fundamental philosophy or theory with which to guide decison-making in the future.

Canada as a nation needs to confront these issues and develop a national response to them. We stand in particular need of a policy-oriented approach that would subject the legal, moral and ethical issues raised by the new techniques to public scrutiny and provide a forum for broadly-based discussion of the larger social implications of these developments. At the earliest possible time we need some instrument, like a royal commission on new reproductive technologies, that, in addition to encouraging public debate of these issues, would seek the expert opinions of our philosophers, social scientists, political scientists, theologians, legal historians, medical researchers, historians, lawyers, physicians and others, who could further our insight into and understanding of the implications of these developments. The goals of this undertaking would be the development of a fundamental philosophy or theory to guide decision-making and the development of national guidelines for the regulation of the new reproductive technologies and for the provision of reproductive services.

In this call for a royal commission, I support a coalition of 20 organizations from nine provinces, the Canadian Coalition for a Royal Commission on New Reproductive Technologies. Individuals represented by this coalition include outstanding professionals in a variety of related fields. The Minister of Health, the Honourable Jake Epp, has recognized the need for such a forum for the examination of these issues. However, he has deferred requesting cabinet approval while abortion remains an outstanding issue.

Due to the urgency of this matter, a royal commission on new reproductive technologies should be established to investigate the social implications of reproductive techniques and reach for some form of social consensus before we commit

ourselves, either tacitly or expressly, to any or all of the ensuing consequences. This investigation could include, but not be restricted to, an examination of the implications of the techniques and arrangements I have spoken of—in vitro fertilization and all the others.

The commission could further include an examination of social and legal arrangements concerning the production of children, such as pre-conception contracts, judicial interventions during pregnancy and birth and the commercial marketing of semen, eggs and embryos, as well as the use of people for reproductive services and related issues. It could investigate these issues in terms of their separate and joint implications for women, men, the resulting children, other relatives, professionals and other personnel involved.

Because many of the implications of these techniques are not widely known, though they affect the very fabric of human social life, such a commission in communicating its findings in the broadest possible manner would be rendering a public service.

New reproductive techniques bring the happiness of parenthood to many couples otherwise unable to have children, but they also pose ethical and moral dilemmas—issues of profound complexity. As Canadians, we must decide how we will balance fundamental values and interests to shape the future we desire for our children. We must determine how advances in medicine and science will be used to support those values and institutions we hold precious. So we must come to grips with these new realities that have been thrust upon us. I urge senators to give some thought to these issues and some consideration to the need for such a royal commission.

Some Hon. Senators: Hear, hear!

On motion of Senator Frith, for Senator Haidasz, debate adjourned.

VISITORS IN GALLERY

BOARD OF DIRECTORS OF INUIT TAPIRISAT OF CANADA

Hon. Charlie Watt: Honourable senators, before I proceed with my motion I should like to draw to your attention the presence in the gallery of a delegation from the High Arctic, the Board of Directors of ITC, the Inuit Tapirisat of Canada.

Hon. Senators: Hear, hear!

THE CONSTITUTION

CONSTITUTION AMENDMENT, 1987—MOTION TO TRANSMIT COPY OF SENATE RESOLUTION TO LEGISLATIVE ASSEMBLIES AND FOUR NATIONAL ABORIGINAL ORGANIZATIONS—DEBATE ADJOURNED

Hon. Charlie Watt, pursuant to notice of Tuesday, May 31, 1988, moved:

> That the Honourable the Speaker do transmit to the Legislative Assembly of each province a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, and urge that the provinces do likewise; and
>
> That a copy of the said Resolution be transmitted by the Honourable the Speaker to the Legislative Assemblies of the Yukon and of the Northwest Territories and to the four National Organizations representing the aboriginal peoples of Canada.

He said: Honourable senators, in the second paragraph of the motion the words "Legislative Assemblies" should be replaced by "Territorial Councils".

• (1550)

Honourable senators, I would like to make a number of important points about the motion I have just presented.

First, I would like to speak about the role of the Senate in the constitution amending process. A few weeks ago we adopted a motion to send a message to the House of Commons informing them of the constitution amendment we approved on April 21, 1988. We may have done that because of our relationship with the lower house within Parliament in legislative matters. Beyond that, sending that message was a valuable step in that the House of Commons has an essential role to play in the approval of any constitution amendment.

However, I wish to stress that the role of the Senate in the constitution amending process is not the same as that of the Senate in the legislative process. In fact, we are only one of 12 legislative bodies involved in authorizing the proclamation of an amendment to the Constitution. In this general sense, we are no more linked to the House of Commons than to the legislative assemblies of the provinces.

It is for this reason that I move this motion today. If we are to stand behind the Senate resolution of April 21, 1988, we must be prepared to communicate directly with the provincial assemblies and to seek their support for our approach to amending the Canadian Constitution. To do any less would be to ignore the simple realities of the constitution amending process we have been operating under since 1982.

Some honourable senators may question the need for the unusual step of communicating directly with the legislative assemblies of the provinces. Once again, the answer can be found in the Constitution. Part V of the Constitution is silent on the manner in which the Senate, the House of Commons and the provincial assemblies are to be kept informed of the status of a constitution amendment that is working its way through the amending process. It states only that the Privy Council shall advise the Governor General when the conditions for the proclamation of a constitution amendment have been met. Obviously, correspondence among the premiers and the Prime Minister may do much to help keep the various parties informed about the status of a constitution amendment; however, it is easy to see that in some circumstances this process may not be entirely adequate. I say that it is time we instituted the practice of communicating directly with the legislative assembly of each province about our actions and decisions within the constitution amending process.

Some honourable senators may be wondering why we would be communicating with the territorial councils of the Yukon and Northwest Territories. After the work of the Senate task force and the special emphasis we placed on northern concerns with the Meech Lake Accord, I think it only natural that we keep the people of the territories informed of the results of our deliberations by communicating with them through their territorial councils.

Likewise, some may wonder why the Senate would wish to communicate directly with the aboriginal peoples. It might be because their rights would be affected by our resolution. But the most compelling reason is that, through their involvement in First Ministers' Conferences, the aboriginal peoples have been recognized as direct and legitimate participants in Canada's constitution reform process. Although groups representing labour, business and municipalities have sought this privilege, only the aboriginal peoples have had the right to sit with governments to discuss constitutional matters. This is already implicit recognition of their right to self-government within Canada. Whatever the case, the precedent has been established. Consequently, the Senate should keep them informed of its actions within the constitution amending process, especially when their rights may be directly affected.

The second point I wish to develop concerns the uncomfortable dilemma in which Canada finds itself vis-à-vis the Meech Lake constitution reform process.

When the Senate approved a resolution authorizing a modified version of the Meech Lake Accord, we did something far more important than simply rejecting the resolution put before us by the government. In fact, we initiated the procedure for an entirely new set of constitution amendments. In other words, there are now, formally, two sets of constitution amendments before the country: first, those contained in the Meech Lake Accord, which emerged from a meeting of First Ministers on June 3, 1987; and, second, those contained in the resolution approved by the Senate on April 21 of this year.

With the developments surrounding the New Brunswick election and, more recently, the Manitoba election, the original version of the Meech Lake Accord may have reached the end of the road as a viable constitution amendment. While this may free us from the dangers arising from the flaws in the accord, it also poses a serious dilemma for the country. Many people, including myself, do not think that the current opportunity to bring Quebec back into the constitutional fold should be discarded so quickly.

I believe that Senate action initiating the procedure for a second set of constitution amendments could be used to overcome the dilemma in which Canada currently finds itself. I say this because we took care to ensure that our resolution did not nullify any of the principles of the Meech Lake Accord that would allow Quebec to end its political isolation from the Constitution and the constitution reform process. In other words, our so-called "killer" amendments could actually be used to rescue the Meech Lake process.

In order to accomplish this, the Senate must be ready to bring its resolution and the constitution amending process, which we initiated, to the attention of the country. The first step in this undertaking is to bring our resolution to the attention of the provincial assemblies, the territorial councils and the aboriginal peoples by communicating directly with them.

For all these reasons I invite honourable senators to consider immediate adoption of this motion.

Some Hon. Senators: Hear, hear!

On motion of Senator Doody, debate adjourned.

[*Translation*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO CONTINUE STUDY OF CONSULTATION PAPER ON CHILD AND ELDERLY BENEFITS

Hon. Arthur Tremblay rose, pursuant to notice of Thursday, June 9, 1988:

> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to continue the study undertaken in 1985-86-87 on the Consultation Paper on Child and Elderly Benefits, issued by the Department of National Health and Welfare, tabled in the Senate on February 5, 1985; and
>
> That the date for presenting its final report, which previously was December 22, 1987, now be extended to no later than March 31, 1989.

He said: Honourable senators, at this late hour dare I move the motion of which I gave notice last week? Since it is such a simple and uncomplicated motion, this will not take long.

Honourable senators, a few short words of explanation about the meaning of this motion. It deals with the same issue indeed, namely the Consultation Paper on Child and Elderly Benefits which was twice referred to the Standing Committee on Social Affairs, Science and Technology during the first session of this 33rd Parliament and which is now back before us.

The committee did examine part of the mandate. It considered the part concerning child benefits and tabled two reports on that subject, an interim report and a final report which was considered by the Senate a few weeks ago.

We are now seeking authority to continue our proceedings and to discharge our full mandate, which means the part concerning the elderly. In this respect, the intent of the motion is quite simply to change the date of presentation of the final report of the committee, as was done before.

That is the meaning of the motion. The continuity I have just noted with respect to the reference of the Consultation Paper on Child and Elderly Benefits being extant, it seems to me that a simple date change should not cause any problem. That is what I am proposing, honourable senators.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, may I ask a question to the Chairman of the Standing Committee on Social Affairs, Science and Technology?

Do the committee members unanimously support this motion?

Senator Tremblay: As a matter of fact the matter was discussed in committee and we agreed on this. As far as I know nobody raised any objection; there was no opposition, or so it seems to me.

Motion agreed to.

• (1600)

[*English*]

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that the Senate do now adjourn.

Hon. Royce Frith (Deputy Leader of the Opposition): This is your last chance to change your mind! You still have a chance. We will revert, if you like.

Senator Doody: Senator Frith wants to revert, but I like him the way he is! I move that the Senate do now adjourn.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, June 16, 1988

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

Prayers.

VISITOR IN GALLERY

DR. GERRY WARD, LETHBRIDGE, ALBERTA

Hon. Joyce Fairbairn: Honourable senators, it is with a great deal of pride that I introduce a special guest who is sitting in our gallery, Dr. Gerry Ward. He is from Lethbridge, Alberta, and is currently travelling across Canada in support of the Canadian Hunger Foundation, which aids self-help food production interests in the Third World.

Dr. Ward, a former minister, is cycling across Canada. He has covered more than 6,000 kilometres in the last five weeks, all the way from Victoria, and will end up in Saint John, New Brunswick, within the next couple of weeks.

In addition to supporting the food production of the Third World, by going through the tail winds of the Rockies and the dust storms of the Prairies, Dr. Ward, at 74 years of age, is also showing us that we can all be ageless if we have the will to participate.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Martial Asselin: Honourable senators, I wish to endorse what Senator Fairbairn just said about our visitor. I do so because I am on the national board of this eminently humanitarian enterprise led by Dr. Ward. Speaking for myself, I welcome him most warmly.

[*English*]

HIS EXCELLENCY DR. HELMUT KOHL CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY

ADDRESS TO MEMBERS OF THE SENATE AND OF THE HOUSE OF COMMONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I ask that the address of the Chancellor of the Federal Republic of Germany, delivered before the members of the Senate and of the House of Commons today, together with all introductory and related speeches, be printed as an appendix to *Debates of the Senate* of this day.

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

Hon. Senators: Agreed.

(*For text of speeches, see appendix, p. 3698.*)

INDIAN ACT

BILL TO AMEND—REPORT OF COMMITEE ADOPTED

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 16, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-SECOND REPORT

Your Committee, to which was referred Bill C-115, An Act to amend the Indian Act (designated lands), has, in obedience to the Order of Reference of Thursday, June 9, 1988, examined the said Bill and has agreed to report the same with the following amendment:

Page 6, clause 10: Strike out line 31 and substitute the following therefor:

"regulations not inconsistent with this section"

Respectfully submitted,

JOAN B. NEIMAN
Chairman

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

Senator Neiman: With leave, now.

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

Hon. Senators: Agreed.

Senator Neiman: Honourable senators, as you have just heard, Bill C-115 was considered by the Legal and Constitutional Affairs Committee yesterday and the committee found nothing of substance that required change. There was just the one small typographical error with which we are dealing today. This change has been concurred in, in advance.

Motion agreed to and report adopted.

THIRD READING

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

Hon. Ethel Cochrane: Honourable senators, with leave, I move that Bill C-115 be read the third time now.

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

Hon. Senators: Agreed.

Hon. Len Marchand: Honourable senators, I want to say just a few words about this legislation. I do not think it would have been possible for this bill to have progressed the way it did had it not been for the good work of Chief Manny Jules of Kamloops. Chief Jules has done a lot of work on it. He appeared before us in committee yesterday to explain the bill, and I think all senators who heard him were impressed with the marvelous work that he has obviously done.

Chief Jules is a young, dynamic leader of the Kamloops Indian Band, and he is typical of the generation of young leaders in the Indian community who are around today. As self-government develops I hope we will see more of this kind of activity before legislation, especially as it relates to Indians, is brought before Parliament. It is often difficult to get agreement in the Indian community on a piece of legislation. In this case, however, I think it is because of the outstanding work of Chief Manny Jules that it was possible to bring things together and agree upon them in such a manner.

Motion agreed to and bill, as amended, read third time and passed.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): 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, June 21, 1988, at two o'clock in the afternoon.

● (1410)

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, could the Deputy Leader of the Government indicate whether he expects to have any additional government business on the order paper for Tuesday next?

Senator Doody: At this point I cannot say that there will be additional government business on the order paper; I can only repeat what I said yesterday. Quite a number of bills are in committee. When we meet on Tuesday, if the sitting is short and there are not too many items, other than government items, on the order paper, perhaps we could adjourn, and then various committees could take advantage of the opportunity to meet.

It might also be possible for us not to sit on Wednesday, in which case we could also allocate that day for meetings. I had hoped that Wednesday evening would be available for committee meetings, but I understand that that possibility has been pre-empted by another event. Depending on what transpires on Wednesday, it might be possible to allocate Thursday for the same purpose. At some time next week the Committee of the Whole has to meet on Bill C-77, the Emergencies Bill. If convenient, that could be done on Tuesday afternoon; if not, we might be able to do it on Thursday.

The items we have to consider are the bills I listed yesterday, which are before various committees and which I will not repeat today. Perhaps committee chairmen and the whips could consult to determine what hours could be allocated for committees on Tuesday afternoon, Wednesday afternoon, and perhaps Thursday.

Senator MacEachen: Honourable senators, I accept what the Deputy Leader of the Government has said with respect to next week. In the future we, on this side, will be seriously tempted to amend the adjournment motion, to have the Senate sit only when there is government business.

Senator Doody: I appreciate what Senator MacEachen is saying, and I actively subscribe to the theory that there is no need for the entire Senate to sit when there is only committee business to be dealt with. Yesterday I implored Senate committee members to attend their committee meetings when the Senate was not sitting. If that could happen, and if we could be assured of a commitment from all committee members to come to Ottawa for committee meetings, and not say, "Because the Senate is not sitting I am not going to go to Ottawa simply for a committee meeting," then there would be no problem. We have tried this on many occasions. As I said yesterday, sometimes it works. Unfortunately, many times there is not a quorum or there are not enough members from either side to make the committee function properly. Because of that we felt there was the necessity of going through the routine I described for next week. I agree that it would be preferable for the entire body not to have to come back to Ottawa simply for committee meetings.

Senator MacEachen: I agree that it should be possible to have committee meetings, even though the Senate itself is not sitting. It seems to me that that should be taken for granted.

The deputy leader has talked about the frequency with which committee meetings have to adjourn because of a lack of quorum when the Senate is not sitting. I ask my next question because I do not know the answer. Do we have a record of the frequency with which this has occurred, and a record of what committees have been particularly affected by this principle that unless the Senate sits committees do not meet? If we are to deal with this properly, it would be interesting to know what the experience has been and to see whether individual committees could undertake the necessary measures to ensure that a meeting takes place when required.

Senator Doody: I do not have that information with me. However, I agree that it could be quite useful. I suggest that our two whips look through the records and see exactly where we stand on these two matters

Motion agreed to.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, it must be obvious to honourable senators that Senator Murray is not with us today. However, I would be glad to take as notice any questions that senators wish to ask.

CANADA-UNITED STATES FREE TRADE AGREEMENT

DEFERRAL OF QUESTIONS TO COMMITTEE

Hon. Philippe Deane Gigantès: Honourable senators, since Senator Doody is taking questions as notice, I should like to ask him the question that I would have asked Senator Murray.

Am I to understand from his pattern of answering all questions that I have put on the Free Trade Agreement that he will not answer such questions here, and that he would like these questions asked in committee?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will certainly see that Senator Murray gets that question.

Senator Gigantès: I am grateful to Senator Doody; he will probably elicit a more sympathetic response from Senator Murray than I would.

Some Hon. Senators: Hear, hear!

CANADIAN ENVIRONMENTAL PROTECTION BILL

THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), for Hon. Brenda M. Robertson, moved the third reading of Bill C-74, as amended, respecting the protection of the environment and of human life and health.

Motion agreed to and bill, as amended, read third time and passed.

NON-SMOKERS' HEALTH BILL

THIRD READING—ORDER STANDS

Leave having been given to revert to Order No. 1:

Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Guay, P.C., for the third reading of the Bill C-204, An Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising.—(*Honourable Senator Flynn, P.C.*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Order No. 1 stands in Senator Flynn's name, and he has adjourned the debate. May I assume that if he does not proceed on Tuesday next he will yield to someone else who may wish to speak to it?

Hon. Jacques Flynn: I could deal with it today. However, I believe Senator Doody explained generally why we do not want to dispose of that order.

Senator Frith: Yes, I know, but that is why I wanted to speak to it.

Senator Flynn: I would yield to anyone who wants to speak to it. I may be late next week so I have no objection to anyone else's speaking to it.

Order stands

IMMIGRATION ACT, 1976

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Peter Bosa moved the second reading of Bill S-18, to amend the Immigration Act, 1976.

He said: Honourable senators, the objective of Bill S-18 is to effect an amendment to the preamble of the Immigration Act, 1976. The preamble in the present policy takes into account the federal and bilingual character of Canada as a factor in developing and administering Canadian immigration policy. My amendment would add the word "multicultural" to the preamble, which would then read as follows:

> taking into account the federal, bilingual and multicultural character of Canada.

This change is in keeping with a number of important changes that have taken place in the recent past. Among them, and the most significant change, was recognition of Canada's multicultural heritage, enshrined in section 27 of the Charter of Rights and Freedoms. Bill C-93, a bill which is now being considered in the other place, will, if adopted, provide a legislative framework for the policy of multiculturalism. I shall have more to say about Bill C-93 when it is examined in this chamber.

● (1420)

In support of this amendment there is also a copy of a letter dated March 19, 1986, from the former Minister of State for Multiculturalism, the Honourable Walter McLean, addressed to Senator Barootes. The minister was replying to a letter from Senator Barootes, who had written to the minister concerning my request for the insertion of the word "multicultural" in the preamble to the policy during our debate on Bill C-55, the first refugee bill that came before this chamber.

The minister promised "to give this issue full consideration in the amending process that deals with the broader reform of the refugee determination system which we hope to introduce in late Spring."

Here, honourable senators, the minister was referring to the spring of 1986.

The new refugee determination bill was presented in August 1987, when Parliament was recalled prematurely to deal with an alleged emergency. There was no amendment to the preamble of the bill, as had been promised by the Honourable Walter McLean. I am not suggesting that that omission was deliberate. I am positive that it was an oversight. Nevertheless, it was a very serious oversight. It shows a lack of sensitivity on the part of this government towards the policy of multiculturalism. Also, a promise by a minister of the Crown to a very prominent and important member of this chamber, Senator Barootes, ought not to have been overlooked. I am sure that Senator Barootes is embarrassed by this omission, and he might wish to say a few words in the debate that will ensue.

Honourable senators, I do not foresee any objection to this amendment, as both the New Democrats and Conservatives, when they were in opposition, supported an identical amendment, reference to which can be found in *House of Commons Debates* of July 21, 1977, at page 7883.

The policy of multiculturalism represents a leap forward in the evolution of Canadian society.

Sociologist Jean Burnet, who served on the Royal Commission on Bilingualism and Biculturalism, had this to say, as reported in a column written by Joe Serge in the *Toronto Star* on June 13, 1988—

Senator Frith: I am sorry, who is it you are quoting?

Senator Bosa: Jean Burnet.

Senator Frith: I understand that she was an adviser.

Senator Haidasz: She is a professor of sociology, I understand.

Senator Frith: I thought you meant that she was a member of that commission. I know that there was a Burnet who wrote textbooks.

Senator Doody: Perhaps we should adjourn while you have your conversation.

Senator Bosa: Honourable senators, I welcome the intervention. Professor Burnet was a research associate with the Royal Commission on Bilingualism and Biculturalism. In any event, Professor Burnet said:

> People from all over the world are becoming Canadians without having to deny or denigrate their origins. Attitudes have changed a lot in the past 50 years . . . What I'd like to see is that people who wish to retain some of their background would be viewed equal to those who choose to discard it.

Honourable senators, Canadian society is made up of scores of minorities, and millions of Canadians find comfort in the policy of multiculturalism. The promotion of understanding and mutual acceptance of our differences has made Canada a strong and united country. I believe that because of this policy Canada is spared the racial and violent strife that afflicts a number of other societies.

Canada is a peaceful kingdom. The origin of this state of affairs can be found in Canada's history. Two great people, the British and the French, have shared a common destiny in the new world; for over 200 years they have lived and worked side by side for a better future. The Liberals have given a name to that duality. They have defined it as "unity in diversity".

Canada's foreign policy is very much influenced by our policy of multiculturalism. We promote peace and human rights internationally and we play a significant role in peacekeeping missions in the troubled spots of the world. The international community believes in what we say, because we are implementing within our own borders the policies that we advocate abroad.

Honourable senators, I conclude by asking you to lend your support to this amendment.

Some Hon. Senators: Hear, hear!

Hon. Henry D. Hicks: Honourable senators, I should like to make a few remarks. I do not propose to vote against this bill, but I have had certain views for a long time and it is perhaps appropriate for me to give expression to them now. To put it bluntly, I do not believe in a policy of multiculturalism.

Senator Haidasz: Shame!

Senator Hicks: I wish that we in Canada would try to evolve toward a Canadian culture.

Senator Haidasz: There is no difference!

Senator Doody: That includes Newfoundlanders, too.

Senator Hicks: I think that people who have elected to come here from many other parts of the world should want to be Canadians. Certainly, their background and heritage will have something to do with and enhance the contributions they make to Canada. I am sometimes afraid that we are trying so hard to promote every small group of people as a separate entity in our country that we are forgetting that the greatness of Canada can only be assured by persons who become Canadians.

I do not like to be referred to as an English-Canadian. I am not an English-Canadian. No one in my background has been born in England for nearly three centuries. I have ancestors of French extraction, German extraction, Welsh extraction as well as English, but I like to think of myself as a Canadian. I should like to think that the people who come to Canada come to Canada because they want to be Canadians. I do not ask them to forget their origins or their ancestors in Europe or Asia or Africa or wherever it may be. I should like to see us stress the development and evolution of a Canadian culture rather than a myriad of cultures which I do not believe unite us, notwithstanding the quotations given by Senator Bosa. I think they tend to separate us and to divide us into small groups.

So I am for Canada and I am for a culture which will, I hope, some day develop as a Canadian culture. Let us stop trying to prevent the emergence of a Canadian culture by spending so much time accentuating the differences that exist among Canadians rather than the things which Canadians have in common.

Some Hon. Senators: Hear, hear!

Hon. Philippe Deane Gigantès: Honourable senators, I support Senator Hicks in what he has said. I, too, will vote for this bill. I think that what Senator Hicks has just described is a natural process. Culture is not something that you can put into compartments. To exist, culture has to have freedom to mingle, and one of the most wonderful things about Canada is the freedom for various cultures to mingle. When asked, I say to Greek groups that I personally am opposed to multiculturalism. I have taken this conviction so far as not to teach my children Greek. I want them to know French and English and, if they have time, to learn other languages of their choice, but while they are small and I am responsible for their education I want them to know the two main cultures and languages of Canada.

I am second to none, and obviously not second to Senator Hicks, in appreciating what other cultures have brought to Canada. The honourable senator is perfectly right when he says that those of us who have come here have come here to be Canadians. We may not be assimilated in the first generation, but we dislike that hyphen. I personally dislike it intensely. Senator Hicks has made a major contribution to this debate.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, as a Newfoundland-Canadian and a relatively new Canadian, I will take the adjournment of the debate.

Senator Perrault: The Newfoundland multicultural society!

On motion of Senator Doody, debate adjourned.

● (1430)

PATENT ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Bonnell, seconded by the Honourable Senator Petten, for the second reading of the Bill S-15, An Act to amend the Patent Act.—(*Honourable Senator Barootes*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, today I had a conversation with Senator Barootes. He called me.

Senator Doody: What did he call you?

Senator Frith: He called me "my friend". He had read in *Debates of the Senate* the statement I made that I hoped we could deal with this matter next Tuesday. He informed me that he cannot be here next Tuesday.

I agreed that I would make it clear that he has some remarks he wishes to make about his concerns on this bill. I explained to him that Senator Doody had been canvassing the possibility of the Senate's not sitting on Wednesday or Thursday in order to give committees an opportunity to deal with the government business before them. Senator Barootes agrees to reserve his comments for the committee. That means that we could refer the bill to committee today. However, my request was that we do it on Tuesday. So the order can stand until Tuesday in case someone wants to speak to it. I will be asking for a vote for second reading and for referral to committee on Tuesday next.

Hon. Jacques Flynn: Is Senator Frith speaking to this matter as Deputy leader of the Opposition or in his personal capacity, since this is a private member's bill?

Senator Frith: I was speaking as Deputy Leader of the Opposition throughout, because the call Senator Barootes made was to me in my capacity as deputy leader. I used the word "we" in the sense that I used it last week. I am glad to make that clarification. In this case, when I say "us" or "we", I do not intend to speak for all senators, and certainly not for Senator Flynn.

Senator Flynn: Is Senator Frith intimating that the Liberal opposition is supporting this bill as such?

Senator Frith: Yes. I am surprised at the question. I had not realized there was any doubt about that.

Senator Doody: There was none in my mind.

Senator Flynn: I wanted to make it clear, because on some occasions Senator Frith intervenes in his personal capacity while on others he does so in his capacity as deputy leader. I wanted to be sure of which capacity he was speaking in now.

Senator Frith: I will try to make that clear every time.

Order stands.

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—CONSIDERATION OF REPORT OF COMMITTEE—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Neiman, seconded by the Honourable Senator Cottreau, for the adoption of the Twenty-First Report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei, with two amendments) presented in the Senate on 25th May, 1988.—(*Honourable Senator Corbin*).

Hon. Jacques Flynn: Honourable senators, has anyone heard from Senator Corbin as to whether he will speak to this order next week? Does the Deputy Leader of the Opposition know whether he will be in attendance next Tuesday?

Hon. Charles McElman: At the moment he is with the Fisheries Committee in New Brunswick.

Senator Flynn: I was fishing myself.

Senator McElman: Did you catch anything?

Senator Perrault: You are just trying to catch a red herring.

Order stands.

[*Translation*]

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN)—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Macdonald (*Cape Breton*), for the second reading of the Bill S-16, An Act to amend the Criminal Code (protection of the unborn).—(*Honourable Senator David*).

Hon. Paul David: Honourable senators, as agreed with Senator Haidasz and Senator Phillips and with your leave, I would like to speak today in this debate. When I finish my speech, I would like to adjourn the debate on behalf of Senator Macdonald (Cape Breton).

Honourable senators, Bill S-16 is for me an opportunity to give you my personal thoughts on a delicate, complex and controversial subject: abortion. Although I share the principles on which Senator Haidasz's position is based, I must dissociate myself from his position, speaking as a parliamentarian who seeks a political compromise acceptable to the entire country. As part of this conciliatory exercise, I would like to explain why I think the way I do.

Honourable senators, there is a tendency to narrow the debate on abortion down to two conflicting rights: the rights of the woman and the rights of the fetus.

To me, this debate goes far beyond these two issues. The basic question is life itself.

The word "life" has personal, moral, spiritual, philosophical, biological, scientific, medical, historic, social, political and legal implications.

It is probably because life is such a broad concept that abortion is such a complex issue, and that no legislation will ever succeed in setting satisfactory criteria.

In June 1987, I heard a remarkable lecture by Professor Hubert Reeves on the origins of the earth. Science talks about millions of years and provides the evidence, but the origins remain a mystery.

The same applies to the origins of human life. It may be the tragedy of our time that we will not accept mystery and insist on seeking the answer in all kinds of theories and scientific hypotheses.

Honourable senators, I am thinking of our almost desperate attempts to establish a difference between the inception of life and the inception of a human being.

In the confrontation between "potential" and "actual", some people maintain that life and the human being are present at the moment of conception, and others argue that a human being becomes identifiable as such after a varying number of weeks.

I share the view of scientists who maintain that life begins at conception. The resulting human being is as old as the stage of his development, which may be one day, or four, twelve, twenty-four or thirty-six weeks.

The male sperm cell and the female egg cell are the cells that initiate life. Together they contain the forty-eight chromosomes in which all the characteristics of a new human being are present. 50 per cent of the genetic content comes from the mother and 50 per cent from the father.

During her fertile years, a woman regularly prepares her uterus for the few days each month when it can receive an egg cell that may be fertilized by a man's sperm. These reproductive cells are the necessary components of life. Whether reproduction is natural or, as is now sometimes the case, artificial, the result is the life of a human being. The cells will develop further and become an embryo, a fetus, and finally a baby.

The spontaneous or intentional destruction of this union of cells, at whatever stage of development, is, whether we like it or not, a destruction of the life that is needed to build a human being.

With the progress of scientific knowledge, researchers have discovered a vast range of birth control methods to prevent fertilization, to program it or in some cases make it more efficient and even initiate it in the laboratory. Thus, women and men have the option of becoming temporarily or permanently sterile. These methods are not all 100 per cent effective, and in cases when they were not effective or were not used, abortion has become the ultimate method in our civilization to deal with an unwanted pregnancy.

In an open letter published in *Le Figaro* on September 19, 1981, Mr. Pierre P. Grassé, former president of the French Academy of Science, said the following to President François Mitterrand of France:

> There is no pre-human period in our life cycle. The embryo contains all the characteristics of a human being in condensed form.

In an admirable article, philosopher Louis Valcke wrote the following:

> The problem is at what point we agree that an individual has developed sufficiently to be legitimately qualified as a human being. Who will determine, who will draw the line between potential and actual characteristics, the line nevertheless must be drawn between non-human, pre-human and fully human? Who are we to determine someone else's humanity . . .

Recently, Conrad Black wrote:

● (1440)

[*English*]

> The burning question is when a fetus becomes a person, and only the Parliament can furnish an authoritative response.

[*Translation*]

In my opinion, the government cannot decide this question, for lack of scientific evidence.

Honourable senators, for 25 centuries, medical ethics has pursued the same objective of absolute respect for life. Let us mention a few examples; Senator Haidasz quoted some others:

Hippocrates lived from 460 to 377 B.C.:

> I will give no woman an abortifacient.

Asaph, a Jewish physician of the 7th century:

> Do not give a pregnant woman an abortive potion to drink.

Lusitanus, a Portuguese physician of the 16th century:

> No woman had an abortion with my help.

And finally, the Genesis Oath (September 1948):

> I will maintain absolute respect for human life, from conception.

These quotations show that beyond religion, politics, ideology and historical period, medicine has always had the obligation to respect life under all circumstances, from beginning to end.

In this context, society must accept the fact that most physicians, whose calling is to protect human life, refuse to perform abortions, which destroy it. In order to avoid this fundamental principle of medical ethics, scientists, researchers and even physicians try to justify what they do by not considering the embryo or fetus a human being in its first weeks or months. Hence, there is a new debate to determine the difference between the cellular stage of life and the precise moment when these cells become a human being.

Our consciences would be greatly relieved if science could answer this question. Such is not the case. We can break the laws of biology, but they can neither be denied nor changed. That is why for me, as for thousands of physicians, abortion in itself is a medically unethical act. I believe that such a principle should be clearly stated by the legislators.

Honourable senators, I think that the importance of the legal vacuum created by the Supreme Court decision of January 28, 1988, has been greatly exaggerated. In fact, for many years, the part of the law judged unconstitutional had been violated by the courts, physicians, professionals and the public.

Let me explain: so-called therapeutic abortions had to be approved individually by a committee in hospitals where abortions were performed. We know that private or public clinics went ahead without such a committee and that gradually the term "therapeutic" was broadened so that it ended up meaning abortion on demand for any unwanted pregnancy.

The decision of the Supreme Court resulted in two developments: abolish therapeutic abortion committees and decriminalize abortion. However, for all practical purposes, they will not change much the reality of the present situation. On the other hand, this ruling raises again the whole issue of abortion. As always in the past, this debate deals essentially with the morality of abortion in our society. This debate has now focused on two extreme positions: its rejection by Pro-Life people, and its acceptance by Pro-Choice people.

Caught between these two extremes, the Canadian people are relying on the state to arbitrate and reconcile their differences. It is already possible to foresee compromise legislation which some will deem too permissive and others too restrictive.

For reasons which are quite evident, honourable senators, the democratic state must take into account the evolution of its society. It reflects its aspirations, behaviours, demands and needs. On the abortion issue, our society itself is painfully divided.

For some, modern society is showing early or already real signs of decadence. For others, it is progressing towards freedom by demonstrating an increased awareness of individual rights. Paradoxically, a materialistic, egotistic and individual-centred philosophy has become increasingly dependent on the state to recognize the rights of the individuals, to guarantee their freedoms and to meet their needs.

Abortion is an example of this change and can be described as the unwillingness to accept the consequences of a freely accepted act.

Honourable senators, it is really abnormal that this debate should attract so much attention at a time when really effective means of contraception and family planning are so readily available. If we add up the pill, the diaphragm, the shield, as well as such surgical means as the vasectomy, the ligature of the Fallopian tubes, and the prophylactic hysterectomy, it is no wonder that in our industrialized nations, wealthy and supposedly civilized, the birth rate is going down constantly.

Dr. Marcel Boulanger stated recently:

> Technological breakthroughs place us in difficult situations. How could we justify the enormous amounts of money spent to fertilize the infertile and sterilize the fertile? Why do we agonizingly ponder upon the sterilization of the mentally handicapped while strangely we are no longer concerned about the sterilization of normal people?

Canada has a birth rate which, at 1.7, is inadequate simply to maintain the current level of population. If we add to this deficit the 60,000 estimated abortions performed in 1987, we are faced with a reality which seriously threatens the future of our nation. Over the past 10 years, Canada has already lost 600,000 people to abortion. In 20 years, this will mean 1,200,000, and over the average lifetime of an individual 72 years of age, this would mean 4,320,000 individuals. What a waste!

This global decrease in the birth rate also denotes a society where the transmission of life is no longer a priority. In his reflections on life, Dr. Alexis Carrel wrote in 1950:

> The decrease in the birth rate is a degenerative disease which affects all civilizations. It caused the decline of ancient Greece and the Roman Empire. It is now devastating modern nations.

Honourable senators, in the 1985 report on therapeutic abortions performed in Canadian accredited hospitals in accordance with the legislation enacted on August 26, 1969, we see that since 1978 their number has gone from a minimum of 60,956 in 1985 to a maximum of 66,319 in 1982.

In 1985, the abortion picture in Canada was as follows: for every hundred live births, there were 16.2 abortions; out of 250 accredited hospitals, only 39 or 15.4 per cent performed three fourths or 74.4 per cent of all recorded abortions.

Honourable senators, a very brief summary shows that, out of 100 women who have an abortion, 89 per cent get it during the first 12 weeks; 77 per cent go to a hospital external clinic; 67 per cent are single; 55 per cent are between 20 and 29 years old; 23 per cent are 19 or younger; 22 per cent are 30 or older, and 20 per cent had at least one previous abortion.

I think we should take those facts into account in coming up with realistic legislation.

Honourable senators, the women's revolution of the past 30 years has had its impact, including the demand for reproductive freedom. I often wonder what would have become of the revenge of the cradle in Quebec if such a right had existed and if our parents and ancestors had been able to benefit from the same means of contraception as our children.

The irreversible move towards women's liberation is a sign of progress and deserves our support, understanding and adjustment. I dispute however the notion that the human life borne by the mother belongs to her exclusively. That life belongs to the father in equal proportion and to society as well, which is responsible for its protection. Biology being what it is, the exclusive role of women in pregnancy and childbearing is not about to change. And when a life, fathered by no matter whom, is developing within a woman, she is responsible for that life. Out of basic, natural human morality, that life must be protected and, in my view, it has precedence over the ownership right of disposal. And indeed this is why, over thousands of years, so many philosophers, moralists, theologians and physicians have condemned abortion and a great many religions have considered the life of the unborn as an absolute right.

Lawmakers must however adopt legislation which is consistent with the evolution of society. The fact that abortion is not a crime has been confirmed by the highest court in the land. To me, abortion in itself remains condemnable, but not the woman who undergoes abortion. To break the deadlock, legislators must imagine constraints which are respectful of the rights of women, of the fetus, of the physician and of an important part of society.

I would like to submit the following quotes from a very balanced article by Mary Eastman published in the April 11, 1988 edition of the Montreal *Gazette*:

● (1450)

[*English*]

> . . . an abortion law can be a middle way between the ethical extremes of total prohibition, untenable when hard cases render it morally tolerable, and abortion on demand, which tends to repel the moral sensibilities of a pluralist society . . .
>
> The killing of the unborn as a solution to social problems must be regarded as a colossal human failure, both sociably and personally . . .
>
> Abortion is not more a labor issue than it is a feminist issue. It is a total human issue that strikes at the heart of our deepest convictions about the nature of human life . . .

[*Translation*]

Honourable senators, the legislation should, in my opinion, take into consideration the principles we have put forward, the Supreme Court's ruling, Statistics Canada data and the change of attitudes in our society. The only solution seems to be, under the circumstances, to give women the moral responsibility to choose according to their conscience.

Since abortion is contrary to medical ethics because it does not prevent sickness, alleviate symptoms nor heal a sick organ, and since, furthermore, it entails the taking of a human life, I question its place in the national health program. Through a different program, we could share with the provinces expenses incurred in specific circumstances, for example, when the mother's life is threatened by her pregnancy, although we know that, with the sophistication of medical science, these cases are extremely rare; when the pregnancy results from incest or rape (that is, psychological or physical violence). when a pregnancy occurs at the age of 17 or younger, and assuming, I repeat assuming, a lack of information on these matters, a lack of informed consent and a lack of maturity; when the mother's mental faculties diminish her responsibility for her actions; when a test shows the presence of a serious genetic disease in the fetus.

In other cases I see no logical reason for requiring the entire population to finance a medical program for an operation that goes against medical ethics, against the moral convictions of many Canadians and against the best interests of this country.

Honourable senators, since abortion contributes to the decline in the birth rate, with predictable consequences, I think it is urgent that we in Canada develop a consistent, generous and dynamic family policy. The first step might be to create a Department of the Family within the federal government and within each provincial government.

To reduce the number of abortions, we could have a campaign to educate the public, as a preventive measure, so that this practically foolproof technique that is becoming the ultimate birth control method will not become increasingly wide spread.

On the positive side, the federal government could take steps, with its provincial partners, to eliminate the irritants that are perceived as obstacles by couples who want to have a child.

By actively supporting the family, all sectors in our society could afford special status to couples who take on the responsibility of bringing children into this world. If we consider children as the most precious investment we have, perhaps the time has come to consider effective ways of revising our laws, our social structures, our housing policies, our taxation system, our day-care system, maternity leave, working hours, benefits for mothers who stay home and for those who work outside the home.

Positive action means that governments would have to change quickly their legislation and regulations, so that couples who want to adopt a child can do so within a reasonable period of time, which could, for instance, be that of a normal pregnancy, and not three or four years as is the case today.

Honourable senators, I think the following five points would adequately summarize my speech:—

Hon. Royce Frith (Deputy Leader of the Opposition): Senator David, could you perhaps slow down when enumerating those five points?

Senator David: Certainly, Senator Frith. First, our legislation should recognize that life is a continuum that starts with fertilization and that the development of the resulting human being starts at that moment.

Second, the judgment of the Supreme Court of Canada, in my view, decriminalizes abortion, reflecting a development that is typical of most modern and democratic societies in the western world.

Third, for compassionate reasons related to the particular circumstances, I suggested five examples of exceptions where government financial assistance seems justifiable to me.

Fourth, in all cases of abortion, the moral, and not criminal, responsibility should be a matter of conscience for the woman who undergoes the operation and the physician who performs it. My personal conviction is that abortion in itself is to be condemned. However, I cannot and will not condemn women who decide to have an abortion.

Fifth, I suggest that a Department of the Family be created in Canada and in every province to promote the family and decrease the use of abortion as a solution to unwanted pregnancies.

Honourable senators, Bill S-16 presented by Senator Haidasz would again criminalize abortion and impose life imprisonment on someone who performs an abortion and a two-year prison term on a woman who undergoes one. In my opinion, this contradicts the Supreme Court decision of January 28, 1988 as well as the Canadian Charter of Rights and Freedoms.

Although sharing the principles underlying this bill, a parliamentarian must, I believe, consider the social reality and adopt an attitude of openness towards a woman who takes moral responsibility for her decision.

For these reasons, I am sorry that I cannot support Bill S-16.

In seeking a reasonable compromise between rigid fundamental principles and flexible human compassion, I tried to suggest the basis for future legislation that would seem acceptable to me.

Thank you, honourable senators, for your kind attention.

• (1500)

Hon. Philippe Deane Gigantès: Honourable senators, I found Senator David's comments very moving. Without any contentious intentions I would like, however, to make a few points. First, when he referred to Ancient Greece, there are no valid statistics to support the view that the people—

Senator Frith: Honourable senators, is Senator Gigantès putting a question or rising in debate?

Senator Gigantès: I am rising in debate.

Senator Frith: Honourable senators, would Senator Gigantès give me an opportunity to put a question to Senator David?

If I followed correctly the five items you mentioned, the third one includes five exceptions. Could you rapidly review those exceptions? I did not quite follow the principle from which flow those five exceptions.

Senator David: Senator Frith, you understood perfectly that I strived to avoid going either too far or not far enough when saying that in my view abortion is not part of a national health program, and when suggesting another program, I am recognizing that in any program, either one, five exceptions would be acceptable at least in my own conscience. There might be six, but in my own observations, thoughts and readings, I recognized those five exceptions as valid ones.

Senator Frith, I am not sure whether I answered your question, but I can repeat those five exceptions for your benefit.

Senator Frith: Well, you just explained there are five exceptions and I can check them in the *Debates of the Senate* if you wish.

Senator David: Yes, there are five exceptions, Senator Frith.

Senator Frith: If I understand correctly, there are five principles and on the third principle there are five exceptions. Did I follow correctly?

Senator David: There are five exceptions for which I would recognize one program or another whereby all Canadians share in the cost of the abortion performed on an individual.

Those five exceptions are five classes of women who get abortions for reasons that in my own conscience I find valid.

Senator Frith: Thank you very much, and you also Senator Gigantès.

Senator Gigantès: The more modern testimonies put forward by Senator David to prove his point are valid enough without having to go back to Ancient Greece and Rome.

I mention the history of these two countries not to promote multiculturalism, but because their cultures belong to us all.

There are no reliable statistics on Ancient Greece to know whether its birth rate was very low. We know that the birth rate in Sparta was very low, a situation which could be more easily and credibly attributed to the fact that the citizens of that city were constantly at war and involved in civil strife with their serfs.

Like all the other trading, democratic and open cities, Athens had lost no citizens and was not faced with a low birth rate.

As far as Rome is concerned, a low birth rate was common among the noble families whose members could be elected to the Senate. As a matter of fact, they were complaining that all

the families other than the noble ones were faced with a staggeringly high birth rate.

Therefore, Senator David, I beg of you, do not always listen to the Library of Parliament researchers. I do not think they are thoroughly informed on this subject. The low birth rate among senators could be attributable to the fact that they had lead water pipes. There is a theory, based on the examination of their corpses, to the effect that the very high level of lead in their bones may have contributed to their inability to procreate.

Honourable senators, I thank you.

Senator David: Senator Gigantès, just the same I must respond to your intervention by saying that the Parliamentary Library researchers are not in anyway responsible for this assessment which was made by Alexis Carrel, one of the greatest French biologists in the early part of the Twentieth Century and a Nobel prize recipient.

I quoted one of his statements from his book entitled "Reflexions on Life". Also, I have read on several occasions "Man, the Unknown" which has always provided me with food for thought.

I suggest that between two philosophers, I can consider Alexis Carrel as a highly competent individual.

Senator Gigantès: Competent, marvelous and quite eloquent. His book is superbe, but unfortunately he wrote it before a number of new archeological techniques were developed. Some were left in the excavation!

Hon. Michel Cogger: If there were no statistical data, how do you know that?

Senator Gigantès: I am an archeologist by trade, dear Senator Cogger.

So, I am grateful for your fine intervention.

[*English*]

Hon. Stanley Haidasz: Honourable senators, a few minutes ago Senator David said that an abortion should be the moral responsibility of the pregnant woman. If that is correct, I should like to ask Senator David this: Does he mean by that that it is moral for a pregnant woman to take the life or to permit the taking of the life of an unborn child?

● (1510)

Senator David: Well, senator, I doubt that that is the main problem we have to deal with.

Senator Haidasz: It is the crux.

Senator David: You have your morals, I have my morals, and the wife who is pregnant has her morals, and I think that if they can achieve an equilibrium between all our morals the legislators will be lucky.

Senator Haidasz: The Criminal Code has a sanction against murder or the taking of human life.

Senator David, will you also ask for an amendment of the Criminal Code to remove that sanction and allow murder to be just an individual, personal moral responsibility?

[Senator Gigantès.]

Senator Phillips: I thought you already did that!

Senator Doody: If no other senator intends to speak on this order, I shall adjourn it in the name of Senator Macdonald.

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

Hon. Senators: Agreed.

On motion of Senator Doody, for Senator Macdonald (Cape Breton), debate adjourned.

THE CONSTITUTION

CONSTITUTION AMENDMENT, 1987—MOTION TO TRANSMIT COPY OF SENATE RESOLUTION TO LEGISLATIVE ASSEMBLIES AND FOUR NATIONAL ABORIGINAL ORGANIZATIONS—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Marchand, P.C.:
>
> That the Honourable the Speaker do transmit to the Legislative Assembly of each province a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, and urge that the provinces do likewise; and
>
> That a copy of the said Resolution be transmitted by the Honourable the Speaker to the Legislative Assemblies of the Yukon and of the Northwest Territories and to the four National Organizations representing the aboriginal peoples of Canada.—(*Honourable Senator Doody*).

Hon. Len Marchand: Honourable senators, as the seconder of this motion, I want to inquire of the Deputy Leader of the Government in the Senate about the intentions of the government side with regard to this motion.

As the seconder of this motion, I had hoped that we could either pass or vote upon it within some reasonable time. I know that there is a courtesy in this place that some reasonable time be allowed for debate when motions are brought before it, but I wondered if honourable senators would find it reasonable to deal with this next week and, I hope, pass it. As the seconder of it, I should like to see it passed at least the week after next.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, that order stands in my name. I noticed with interest Senator Watt's introduction of the motion and waited for some time for him to give his explanation, which I heard yesterday. However, I have not had a chance to read it as yet.

I also indicated, when I was asked about this by Senator Marchand as I came into the chamber, that I intended asking the FPRO office people to let me have their thoughts on this particular motion. It is an interesting one, and one which deserves to be reflected on and discussed. I have no desire to prevent anyone else from speaking. As the seconder of the motion, Senator Marchand can speak any time he wishes—I would only be too happy to yield.

As soon as I have my material prepared I will certainly speak on it. In the meantime, the option of bringing the matter to a vote is in the hands of the Senate any time it wishes to do so. However, I hope that does not happen before I have a chance to get my research done.

Senator Marchand: Honourable senators, it is not a matter of my wanting to speak. If I wanted to speak on it, I understand that I could do so. A great deal has already been said on this whole question of the Meech Lake Accord. This motion, which I seconded for Senator Watt, is a clear indication that the matter of the amendments we put forward from our side should be sent off to the legislatures and legislative councils of the territories. That is quite clear.

All I am saying is that, after some reasonable period of time has passed and the government has had an opportunity to have a look at it, it would be reasonable to take action on it. I should like to see some action taken on it before too long.

Senator Doody: I have no quarrel with that, Senator Marchand. Certainly, the definition of the word "reasonable" is one that can be discussed from time to time, but I have no intention of trying to delay the progress of the motion. I noticed that it was spoken to on June 15.

In any event, I will undertake to try to move as quickly as I can to get the information I asked for, and I will speak on it as soon as I possibly can.

Order stands.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION

MOTION TO AUTHORIZE FOREIGN AFFAIRS COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-130—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C.:
>
> That the Standing Senate Committee on Foreign Affairs be authorized to examine the subject-matter of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America, in advance of the said Bill coming before the Senate or any matter relating thereto.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Doody advised me that Senator Ottenheimer wished to make an intervention on this order, and I am glad to yield to him and then move the adjournment.

Hon. Gerald Ottenheimer: Honourable senators, I thank Senator Frith.

I shall be quite brief on this, but I would like to speak for a few minutes with respect to the motion of the Honourable Leader of the Government in the Senate, which states:

> That the Standing Senate Committee on Foreign Affairs be authorized to examine the subject-matter of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America, in advance of the said bill coming before the Senate or any matter relating thereto.

The position of the opposition was outlined by the Honourable Leader of the Opposition and is found in *Hansard* of June 7. To refresh honourable senators' memories, I shall take a few quotations from it.

The honourable senator asked "whether there is any advantage at this time in initiating a pre-study of the free trade bill." He went on to point out that the Senate committee was engaged, and had been for six months, in the examination of the subject matter of the bill, which is the Free Trade Agreement between Canada and the United States. He also pointed out that "the Free Trade Agreement and the legislation are about the same thing," and then stated:

> Giving the committee a further reference at this time, in my opinion, will not achieve any additional benefit.

I think that I have fairly—without being selective or trying to colour anything—synopsized from the honourable gentleman's own words the major point that he made.

Indeed, there would be benefit for the Standing Senate Committee on Foreign Affairs and, therefore, benefit for the institution, the Senate itself, to study Bill C-130.

● (1520)

Some years ago that committee studied free trade in its general context—there was no Free Trade Agreement or Bill C-130, but it was a conceptual consideration of it. For the past six months the committee has studied the Free Trade Agreement, which is an intergovernmental agreement, and obviously much more specific than a general, conceptual debate on free trade.

The committee and the Senate are now in a position where they have a projected, specific piece of legislation. While it is true, obviously, that the projected legislation is to incorporate the agreement and that the agreement is one which, in the honourable gentleman's own words, will be the subject matter of this legislation, is it not a valid principle that, when it is possible to do so, the committee should examine as specific a reference as possible? In other words, why continue to study a projected intergovernmental agreement when the draft legislation which will incorporate it is available? Surely there is nothing that the committee is now empowered to do that it could not do if Bill C-130 were referred to it.

The honourable gentleman, in putting forward the views of the opposition, stated:

> . . . we must point out that the Senate has in fact been carefully studying the agreement for upwards of six months now. All that work is money in the bank, so to speak, to be drawn upon when we actually have the legislation.

Perhaps if I could push that metaphor just a little bit further, no doubt it is money in the bank, but I think it is a non-interest-bearing account and, if the committee were dealing specifically with Bill C-130, the same money would be in the bank,

but I think it would accrue some interest to the Senate, and then, perhaps, to the people of Canada as well.

Therefore, honourable senators, when it is possible to be specific and to have the specific document that eventually the Senate will be required to vote upon, it appears to me to be inconsistent to deal with something less than or other than that specific document, when, in so doing, nothing that can now be done is precluded. The subject matter is the same, but one is an agreement and the other is projected legislation. Therefore, I would suggest that dealing with the projected legislation would, in the end, be more beneficial.

It seems to me that the perception of the Senate is perhaps something like the perception of justice: not only that something be done but that it be seen to be done. For those members of the public who are interested in what we do—and they are probably not the great majority of the people in Canada—if that committee were dealing with the specific, proposed legislation, we would also be perceived to be dealing directly with legislation that will eventually be before us rather than with an intergovernmental agreement—something that, as such, will not be passed by this chamber.

Therefore, from a legislative point of view, I can see no disadvantage or negative aspect in referring the bill to the Standing Senate Committee on Foreign Affairs. In my opinion, there is nothing that the committee will be precluded from doing on an examination of Bill C-130 in comparison to what it is now doing. Moreover, as I said before, not only will the committee be directly considering Bill C-130; it will be seen to be directly considering that bill. It might perhaps be said that appearances are not important, but there are many people who have grave doubts about the value of what is done in this chamber and perhaps we owe it to ourselves and to them to be conscious of their perception of this chamber and its activities. Therefore, if the committee is considering Bill C-130 rather than the agreement, I think the perception will be more concrete, more relevant and more real.

Honourable senators, this chamber is obviously not only a legislative chamber; it is a political chamber. I want to make it clear that, when I say that an institution is political or that someone does something politically, I do not mean that in a pejorative way. Any honourable senator who has spent a number of years in either a federal or a provincial legislature, or government, or has been involved in any way with the political process should not, in my opinion, take umbrage when someone uses the word "political" and jump to the conclusion that that is a pejorative term. There is nothing wrong with saying that this is a political forum as well as a legislative forum and that people act politically as well as legislatively. I would suggest, therefore, that there is no legislative reason to vote against the motion for pre-study. However, if this is being done for political reasons, then that is another matter. I hasten to repeat that I do not use that term pejoratively. I am sure that the honourable gentleman, who has spent more years in elected politics than most of us here, would agree that the word "political" when attributed to a forum is not a pejorative term. It is simply different. Most of us here in this chamber are politicians as well as legislators.

[Senator Ottenheimer.]

Therefore, if we knew that a political decision had been made to deny pre-study of this bill, then perhaps we could save ourselves a great deal of time, because we all know where the majority in this chamber lies. However, I understand from the speech that was made by the Honourable Leader of the Oppostion that that decision has not been made; that we are, in fact, in a state of limbo. However, even theologians today worry about limbo. Most people would say we either go up or go down, if, in fact, we go anywhere. Perhaps, in the interests of all of us here, we should get out of limbo. If there are political reasons for this decision, then, obviously, 60 always out-votes 30, and at least we would know what the situation was and the people of country would also know.

Honourable senators, it is a fact that the Speaker of the House of Commons has ruled in favour of the presentation of Bill C-130 in its present form and against a point of order with respect to its division. However, that does not mean that a similar point of order could not be raised in this chamber. Perhaps it is speculation on my part, but one would assume that the same decision would be made on a similar point of order if it were raised in this chamber.

Another possibility can be exemplified by the reversal of the decision of the Chair a few days ago with respect to the division of the bill on ACOA. In other words, the ruling of the Chair in the Senate could then be reversed by the use of the majority in the Senate and we would all then be in a great procedural—

Senator MacEachen: Limbo?

Senator Ottenheimer: —limbo, yes, exactly—

Senator MacEachen: You get there no matter what you do.

Senator Ottenheimer: Yes. I think the honourable gentleman wants to keep us there in limbo.

Senator Frith: All roads lead to limbo!

Senator Ottenheimer: However, honourable senators, in the final analysis, what it comes down to is that from a legislative point of view there is nothing the committee could not do when considering Bill C-130 that it can now do. If for no other reason than from the point of view of the perception of what is being done by the committee and by the Senate, let us make our reference as specific as possible, now that we are in a position to make a reference with respect to a specific piece of legislation. That appears to me to make reasonably good sense.

On the other hand, in light of the fact that this is not only a legislative forum but also a political forum, if the political rather than the legislative perspective has taken the priority for the time being, then perhaps that should be made clear and, since we are all presumably reasonably good at arithmetic, we might as well dispense with the matter.

Honourable senators, my final point is that this matter should be voted on fairly soon so that we, and the people of this country, will know where we stand.

Senator Frith: Honourable senators, I move the adjournment of the debate. In so doing I want to make it clear that, while I think Senator Ottenheimer has a misconception of the relationship between the Free Trade Agreement and the legislation, both here and in the United States, I do not want to expand on that at this time. However, if other senators want to intervene in the debate, although it is adjourned in my name, they are welcome to do so.

On motion of Senator Frith, debate adjourned.

• (1530)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-SIXTH REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Reports of Committees:

Hon. Royce Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, June 16, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTY-SIXTH REPORT

Your Committee notes that the Senate and the House of Commons have been advised by Treasury Board that improvements to the Government-paid insurance (PSMIP) are extended to both Houses of Parliament should Senators and Members of the House of Commons wish to take advantage of these benefits. The House of Commons had advised the Senate that these improvements will be extended to their Members.

The maximum incremental annual costs to the Government for these improvements based on 104 Senators would be approximately $8,500.00.

The effective date of these benefits will be communicated to Senators as soon as Treasury Board informs the Senate.

Your Committee recommends that the extension of these improvements to the PSMIP Plan to Senators be approved.

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

Senator Frith: Honourable senators, in essence, the report involves an improvement to the pensions for Members of Parliament, both in the House of Commons and in the Senate, and deals with the rather small amount of increase that will be borne by the Treasury Board with regard to that improvement. The matter came before the committee today.

Senator Doody: Are you referring to insurance or pensions?

Senator Frith: I am sorry, it should be insurance.

Senator Doody: You got my heart pumping there.

Senator McElman: I could see you were very excited!

Senator Frith: Yes. I do not propose that we deal with the report today. In essence, the report makes a recommendation, and I shall be moving that we accept that recommendation on Tuesday; so we have the weekend to study the report.

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

The Senate adjourned until Tuesday, June 21, 1988, at 2 p.m.

APPENDIX

(*See p. 3685*)

ADDRESS

OF

HIS EXCELLENCY DR. HELMUT KOHL
CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY

TO

MEMBERS OF THE SENATE AND OF THE HOUSE OF COMMONS

IN THE

HOUSE OF COMMONS CHAMBER, OTTAWA

ON

THURSDAY, JUNE 16, 1988

The Chancellor was welcomed by the Right Honourable Brian Mulroney, Prime Minister of Canada and thanked by the Honourable Guy Charbonneau, Speaker of the Senate and Honourable John A. Fraser, Speaker of the House of Commons

Hon. John A. Fraser (Speaker of the House of Commons): The Right Honourable the Prime Minister.

Some Hon. Members: Hear, hear!

The Right Hon. Brian Mulroney (Prime Minister): Mr. Chancellor, Mr. Speaker of the Senate, Mr. Speaker of the House of Commons, Members of the Parliament of Canada, I have today the honour of welcoming among us the Chancellor of the Federal Republic of Germany, His Excellency Helmut Kohl.

Some Hon. Members: Hear, hear!

Mr. Mulroney: His visit reminds us of and strengthens the ties that exist between our countries. We are partners in peace, partners in prosperity and partners in progress. The defence of Canada begins in the Federal Republic of Germany. More than 7,000 Canadian troops are stationed in the Federal Republic at Lahr and Baden. They stand the first watch on the front line of freedom.

[*Translation*]

We are partners in the Economic Summit group of leading industrialized nations, meeting in Canada next week in our great city of Toronto, a showcase of the Canadian economy.

In the Economic summit group, in the G-7, in the OECD, in the GATT, and other forums of the international community, Canada and the Federal Republic are often advocates of the same cause—from trade liberalization, to easing the debt burdens of the Third World.

Canada and the Federal Republic are trading nations, equally dependent on securing existing markets and creating new ones. We both depend on liberalized trade. We both suffer when protectionism grows.

The Federal Republic is our fourth largest trading partner, with two-way trade of $5 billion last year.

[*English*]

Shared and long-standing bonds of kinship and partnership between our two peoples and countries are the very foundation of our Atlantic bridge. Three hundred and twenty-five years ago, Hans Bernard purchased land near Québec City and became the first recorded German settler in Canada. Then followed the Irish.

Some Hon. Members: Oh, oh!

Mr. Mulroney: Lots of them.

Some Hon. Members: Oh, oh!

Mr. Mulroney: But waves of colonists from Germany followed him to make a homeland in a land of new opportunity. Canada has been enriched beyond measure by the contributions of Canadians of German heritage to the political, social and economic fabric of our country.

Some Hon. Members: Hear, hear!

Mr. Mulroney: The Right Hon. John Diefenbaker, Canada's thirteenth Prime Minister and an illustrious Leader of my Party in the House of Commons, traced his ancestral roots to Germany. He would be very proud, Sir, of your presence here today.

Some Hon. Members: Hear, hear!

Mr. Mulroney: Today, many Hon. Members from both sides of the House are proud, very proud, of their German ancestry. In our Cabinet, Frank Oberle as our Minister of State for Science and Technology, helping to steer our nation through the high technology frontier of a new decade and a new century, was born in Forchheim in your country and came at the age of 19 to ours, eventually settling in Chetwynd, British Columbia. You lost a vote, and I got one.

His, Chancellor, is the story of 8 million Canadians, almost one-third of our citizens, whose mother tongue is neither English nor French. Indeed, it is the story of Canada itself, a nation of immigrants, a land of promise, a people of hope. Altogether, well over 2 million Canadians trace their roots to Germany, the largest group of origin after English and French-speaking Canadians. Ours is a nation of two languages and many cultures. Shared values and hopes stir us individually and collectively to seize the courage and the vision to challenge the uncertainty of our times.

In the past, the friendship between our two peoples has been interrupted by war. But today we recognize more than ever that we live in a time when war is, as you have said, absolutely unthinkable. We know that it is better to live with one another in peace and prosperity in a more interdependent world.

Under Chancellor Kohl's vigorous direction, the Federal Republic has resumed a vital leadership role in addressing issues on the global agenda. I have been present at many meetings of heads of government where security and strategic considerations have been paramount. I have not heard an analysis more cogent and thoughtful than that put forward by

Chancellor Kohl. He brings to these discussions a unique and incisive understanding of both the challenges and the opportunities associated with the vital East-West relationship. His is a voice of reason. His message is one of clarity and strength. On behalf of all Canadians I salute you for that today, Chancellor.

Some Hon. Members: Hear, hear!

Mr. Mulroney: The Federal Republic under Chancellor Kohl has made protection of the environment one of its most pressing priorities.

[*Translation*]

In the Federal Republic, as well as in Canada, environmental concerns are in the mainstream of public opinion, and the environmental agenda is in the mainstream of public policy. The Federal Republic is a signatory of the Montreal Accord to arrest the dangerous deterioration of the ozone layer. And we welcome German participation in the International Conference on the Atmosphere which Canada will be hosting in Toronto at the end of this month.

From our private discussions since your arrival, Chancellor, I know that we have similar objectives for the multilateral and bilateral agenda before us. At the Toronto Summit next week, we will cooperate with other Summit countries to maintain the present climate of non-inflationary growth, while at the same time helping to reduce the imbalances in the world economy. We will be encouraging our Summit partners to undertake additional measures to reduce structural rigidities in all of our economies.

[*English*]

We all recognize that the agricultural trading system requires fundamental reform. We share a deep concern that the Third World debt has reached an astronomical sum of a trillion dollars. We know that you share our concern for the poorest of the poor and are taking steps, as we have, to alleviate the debt of the hard-pressed African states.

Our commitment to an enhanced multilateral trading system is the cornerstone, and it always has been, of Canadian policy. At the core of this system is the current set of multilateral trade negotiations and the need to come to grips with the acute problems which exist in the area of agricultural trade.

I have twice visited you, Chancellor Kohl, in your capital, and now it is my privilege to welcome you to ours. This is a historic occasion, as well as a very happy one. Your visit marks the first time ever that a Chancellor of the Federal Republic of Germany has spoken to our Parliament.

You, Sir, are welcomed here as a friend, a good and a valuable friend of Canada. I bid you, Mrs. Kohl, and every member of your delegation, a very warm welcome. I invite you now, Sir, to address the Parliament and the people of Canada.

Dr. Helmut Kohl (Chancellor of the Federal Republic of Germany): Mr. Speaker of the Senate, Mr. Speaker of the House of Commons, Prime Minister, ladies and gentlemen, thank you for your kind applause and welcome. I should like to express my appreciation to you, Prime Minister, for your kind and friendly words of welcome. These were words of welcome, but they were also expressing a sense of friendship. I warmly reciprocate and return these feelings.

I am most grateful, Mr. Speakers, and Members of both Houses of the Canadian Parliament, for having invited me to address you here today in this venerable building which, since Confederation was formed in 1867, has been the seat of Canadian Parliament. This is the first time, and you said so, Prime Minister, that a head of government of the Federal Republic of Germany and of a country which currently holds the presidency of the European Community has been afforded such an opportunity to address you here. Therefore, I regard your invitation not only as a special honour for my country but also as a token of your solidarity with Europe as it progresses toward union.

I wish to convey to you, Members of Parliament, my warmest greetings from my fellow countrymen in the Federal Republic of Germany and of Europe.

You, Prime Minister, since the days that you participated in your first summit have played a most helpful role in bridging differences of approach among the partners participating in the economic summit. You have made an essential contribution toward enlarging the G-5, which today includes Canada as well, for the development of international economics. This was certainly an essential step.

In many of our meetings I have been struck again and again by your effort to contribute toward progress and to produce acts of solidarity, and in this way bring about solidarity among the participants in these meetings. I congratulate you as well for concluding the free trade agreement with the United States of America. This is a forward-looking sign. The European Economic Community, in 1992, will establish a single domestic market for 320 million people, an area not in terms of population but in terms of economic potential, which will be the strongest region. If this becomes a reality we will need particularly close consultation and relationship with the United States and Canada, and in particular with that important area in South-East Asia with Japan at the centre. These are the three important regions in international economic relations. I welcome the fact that Canada and we, the Federal Republic of Germany, have particularly close contacts and will help to promote this wonderful development.

Some Hon. Members: Hear, hear!

Chancellor Kohl: Your country, Canada, has always cultivated her political, economic, and human ties with Europe; intellectual and cultural life are rooted in European tradition. Your Prime Minister referred already to the fact that the great majority of your people are descendants of European immigrants. Since the middle of the 18th century

and particularly following the devastating wars of this century, the First and the Second World War, countless Germans have emigrated to Canada.

Here they sought freedom and found freedom, political and personal freedom, freedom from poverty, and freedom from the constraints of the old continent. Those immigrants and their descendants, who today count for probably one-tenth of the population of Canada, have played a large part in your country's economic, technological, and cultural development. They have, and we are happy and delighted at it, preserved their links with their relatives and friends in their native countries, and they are proud of their new home country of Canada.

European visitors in particular are always impressed when they see how Canadians of different origin, and above all those whose roots are in western, eastern, southern and central Europe, live and work together harmoniously in their new homelands, and how, on the basis of the country's federal structure, they preserve the cultural heritage and traditions of their native countries whilst building their common future here in Canada, their new home country.

Here in Canada you have already achieved, to a large extent, what we in one part of Europe, the Community of the Twelve—and this is only part of Europe, the larger part of Europe, which for different reasons cannot yet join those who have formed the European community—are striding towards, sometimes with little steps, sometimes with big steps, namely, unity in diversity.

But let me also say to Canadians of eastern European origins here in this place: We have not forgotten your native countries either! When we speak of Europe, we always have in mind the whole of Europe, east and west of the Iron Curtain.

Some Hon. Members: Hear, hear!

Chancellor Kohl: For this reason the central aim of the policy pursued by my Government, the policy of our friends and allies, is to overcome the division of Europe, and this includes the division of our German fatherland; to make the frontiers more permeable; to reunite separated families and facilitate human contacts; and to develop a lasting and equitable peaceful order in Europe in which all nations themselves can determine their own future and cultivate their relations in freedom.

Mr. Speaker, the free democracies of Europe and North America are linked by their common commitment to the inalienable human rights and to the principles of freedom and democracy enshrined in their constitutions, to the openness of their communities, and together we are resolved to defend our freedom. For my country, the Federal Republic of Germany, this is the basis of our policy.

The trans-Atlantic Alliance, NATO, the alliance of free democracies has, for over 40 years now, preserved the common peace, the common security, and the common freedom.

In this building a chapel reminds us that twice in this century citizens of your country have fought and sacrificed their lives in Europe. Only those who know the devastations of war, the disasters of war, can truly appreciate the fact that our Alliance has secured for Europe, and for us in the Federal Republic of Germany, the longest period of peace in its more recent history.

This has only been possible, and particularly in difficult phases of relationships between East and West, because the allies have shown the political will and determination to maintain adequate military forces, to pool their defence contributions and thus guarantee their common defence capability.

The North American democracies, at least Canada, have rendered an invaluable contribution to those efforts, especially by stationing troops in Europe, and I wish to take this opportunity here before this high House to express my thanks and appreciation for Canada's military presence in my country, and to express my appreciation and gratitude for the service rendered by your Armed Forces in my country.

Some Hon. Members: Hear, hear!

Chancellor Kohl: Let me also address a word of very personal thanks to all Canadian servicemen and their families, whom I meet again and again when I am in Lahr, the Canadian base, who have lived in our country or are living in our country and fulfilling their defence mission side by side with our own troops in our own country.

This is important for us. We have a conscript army of more than 500,000 young Germans who are serving in that army. For them it is particularly significant and important to know that they stand shoulder to shoulder with comrades from other countries of the free world.

Some Hon. Members: Hear, hear!

Chancellor Kohl: I would also express my gratitude for the opportunities you are offering us in the way of training facilities here in Canada, which we do not have in our own country.

The Alliance's assured defence capability has always been and will be the basis for the other principal task to which we jointly committed ourselves in the Harmel Report 20 years ago. That is the quest for a constructive dialogue and closer co-operation with the countries of the Warsaw Pact, and in particular the pursuit of disarmament and arms control to reduce the stockpile of arms in a sensible disarmament and arms control dialogue.

In this respect, too, Canada has rendered outstanding contributions. Lester Pearson was one of the first of the Alliance's statesmen to begin a dialogue with Moscow.

Canada's commitment in the negotiations on security and co-operation in Europe, especially with regard to human rights, has left its stamp on the documents of Helsinki and Madrid.

Until this very day, your country is playing an active role in the arms control negotiations, particularly in the last months and years.

The correctness of the policy pursued in the name of Harmel has been strikingly confirmed. We are experiencing a dynamic improvement in East-West relations, which most of us would have considered to be inconceivable a few years ago.

Never before in the post-war era have the superpowers conducted such an intensive dialogue at the summit. I have asked for such meetings again and again, without expecting too much in the way of an outcome, but I am certain that summit meetings are a major driving force of East-West relations. I want to express my congratulations to the President of the United States and to General Secretary Gorbachev, and express our wish that that policy should be continued along this line.

Some Hon. Members: Hear, hear!

Chancellor Kohl: Never before have East and West discussed such a wide variety of subjects and worked together in so many areas as today, in spite of the continuing differences between their systems. We should admit that these differences are still great and considerable.

Seldom before have the possibilities for removing old obstacles to dialogue and co-operation been more promising. I believe there is an opportunity to reduce tensions in important areas. Afghanistan is an illustration of such an area. Above all, we see for the first time that the Soviets are willing to reflect on the threat posed by their superior military strength and their claim to an ideological monopoly, and to seek through negotiation the path to stable and genuine peace with fewer weapons. This is the course the West has always advocated in the last years and decades.

The INF Treaty is a milestone along this road. It stems from a western initiative. It was made possible by the solidarity and cohesion of the Alliance. Hence, it is, in the best sense of the word, our common success.

It is the first treaty in the history of arms control to provide for the destruction of a whole class and category of weapons. Its underlying principle that whoever has more weapons must scrap more, as well as its strict provisions on verification, are a model for further steps toward disarmament.

We can all congratulate ourselves on this treaty having been put into effect, and all of the treaty's provisions must now be strictly implemented within the prescribed time frame so that it can pave the way for further arms control agreements.

Particularly important in this context is a global and comprehensive verifiable ban on chemical weapons. The continuing proliferation and use of these means of mass destruction must be stopped immediately. In this aim we are at one with your country and greatly value Canada's major contributions to the Geneva negotiations.

Some Hon. Members: Hear, hear!

Chancellor Kohl: Nonetheless, the basic problem of security in Europe, not the least the security of the Federal Republic of Germany, continues to be the conventional superiority of the Warsaw Pact, as well as its capability for launching surprise attacks and for initiating large-scale offensive action. Eliminating these capabilities must be the objective of future negotiations on conventional stability throughout Europe, from the Atlantic to the Urals. We are banking on these negotiations commencing before the end of this year. Here again, Canada and we agree.

Another objective of the Alliance is to reduce the American and Soviet short-range nuclear missiles to equal ceilings in conjunction with the global elimination of chemical weapons and the establishment of conventional stability in Europe.

This is a basic principle of the Alliance, that dialogue and co-operation between East and West should not be confined to matters of security and arms control or disarmament. Progress must be achieved in all fields: including political dialogue, in economic co-operation and cultural exchange, in preserving our natural environment and natural resources, in the solution of humanitarian problems, and particularly in realizing human rights.

This principle is a reflection of the experience of our countries and all our citizens: military means alone will not guarantee security and freedom. While we need the necessary military means because freedom cannot be had for nothing, it is important that our citizens support this principle and are convinced that their human dignity is respected most in a free society, that only in such a community can the individual achieve self-fulfilment according to his aptitudes and inclinations, and that only in a free economy it is personal achievement that counts and is rewarded, and that human solidarity and social justice are possible.

The English language has given us the word "commonwealth", a community of free citizens and free nations based on mutual prosperity. That is what we want in Europe. I repeat, we are convinced that an economically and politically united Europe, a strong European community, can render an inestimable contribution to the security of the West as a whole and to world peace and stability. A nucleus of this community is Franco-German co-operation. That co-operation at the end of this century will have overcome many hundreds of years of national egotism and bitter fratricidal wars.

Prime Minister, you referred to your Minister of State who comes from my home country. He comes from a part of the country where for more than 300 years, we had a war in practically every generation; hardly any generation has not seen the villages and the cities destroyed during Franco-

German wars. Today we are living in a period in which the generation of our children would consider it to be absolutely inconceivable that something like this could happen again.

When, three years ago, I met with François Mitterrand, the French President, in Verdun to commemorate the dead of the two wars, what impressed me most was not so much the number of these graves; what impressed me most were the 20,000 or 30,000 school children who had come from France and from Germany and were running about playing with each other. They found it absolutely impossible to imagine that their own grandfathers or great-grandfathers may have been buried in these graves.

Some Hon. Members: Hear, hear!

Chancellor Kohl: If the French under the Elysée Treaty concluded between Charles De Gaulle and Konrad Adenauer are friends today, then their common policy is not directed against anybody and everybody is invited to join in, but without this nucleus, the core of European development, there will not be a united Europe. We, the French and the Germans, want to be a driving force, an engine, along this path toward a united Europe.

Close relations between a free Europe and North America based on mutual trust remain vital for both sides. I am therefore glad that a regular political dialogue with Canada has been formally agreed in the European community within the framework of European political co-operation on the proposal of the German presidency. This shows the special significance which the Twelve attach to their relations with Canada.

The European community's principal objective now is to complete the single European market by 1992. We aim to create an economic area embracing 320 million consumers, and this is also an important contribution to the development of international trade and commerce. This market offers huge growth opportunities for the European economies and hence for the world economy. It will be and will remain accessible to all. Not only that, it will make the European community an even more capable ally in the fight against protectionism.

The German presidency has energetically pursued this objective of completing the internal domestic market. As early as February, the European Council at its meeting in Brussels set the course, and at the end of this month in Hanover, other important decisions will be taken at the European summit. I am confident that, and I would like to pass on this message to you, when established, the internal market will also offer Canada fresh opportunities to expand her trade relations and her industrial and technological co-operation with Europe.

The U.S.-Canadian agreement on a free trade area, too, has established a new basis for future trade relations on the North American continent. We trust that our friends' expectations here in Canada of increased growth to everyone's advantage will materialize. We trust in the assurance of our Canadian friends that European companies, too, will be able to use the new opportunities for expanding trade. It is our understanding that the free trade agreement will be implemented in accordance with GATT rules. As always, we count on you here in Canada as staunch champions of an open, multilateral trade system.

Another major task of the community which we should also discuss here is the reform of its agricultural policy. I know that criticism of this policy has occasionally been voiced in your country. I think we should discuss this subject here, because particularly among friends, one should speak freely about differences in approach. I am particularly gratified to inform you that in February, the European Council took the necessary fundamental decisions to adjust past aberrations and in particular to limit surplus production.

It must be our objective to limit and to reduce productions in drastic measures. I am against permanent subsidies on principle. Let me add, ladies and gentlemen, when developments have taken a wrong course over 20 years, one cannot remedy the situation overnight. We must now try to attain the objective gradually to reduce the surplus production. Farm units must also have the opportunity in future.

The family-run farm must remain viable in the Europe of the future. However, we respect the decision to take land out of production and reduce farming activity, because this is the only way to ease the strain on the market. Agricultural policy will be one of the subjects on the agenda of the world economic summit in Toronto in a few days' time. The problem of overproduction and of the subsidies race on world markets must be solved.

Some Hon. Members: Hear, hear!

Chancellor Kohl: In Toronto, we will be discussing the world economic situation, the perspectives for growth without inflationary pressure, and we should also dedicate ourselves to the study of the dangers of global protectionism which have by no means yet been removed. The participants in the summit meeting must together strive to ensure that the GATT Uruguay round will prove successful. This meeting will take place in autumn here in Canada, and it is of the greatest meaning and significance for future international developments in the economic sector, not least in view of the problems confronting the developing countries. We will have to discuss that in Toronto as well, the issues of hunger, poverty and indebtedness.

I am one of those who believe that in the first quarter of the 21st century, the hazards, challenges and risks of the North-South conflict will overshadow the East-West problems. This is not only a question affecting the economic situation. It is also a question of the quality of human policy.

I am making these remarks as a German because as a pupil I lived through the Second World War and I still have memories of what the situation was back in 1945 after the

complete breakdown of our country. We were half-starved, and I felt at that time what it means for a country to receive help, help from Canada, help from the United States of America. We have not forgotten that. Since we are now among those countries which are better off in spite of the problems we still have not solved, we consider it important that the strength of a free system should also be shown in acts of solidarity *vis-à-vis* the poor countries.

Some Hon. Members: Hear, hear!

Chancellor Kohl: Canada's foreign policy, especially within the framework of the United Nations, reflects in exemplary fashion the awareness that the different worlds on this planet cannot live in isolation from one another. On the contrary:

International solidarity is the dictate of the hour.

Mr. Speaker, not only must Governments and nations combine their efforts and their energies and develop North-South relations in a way that will hold out hope for the future. We must jointly master the challenges facing mankind as a whole:

—in the nuclear age we must prevent any kind of war;

—we must make constructive efforts to provide a new framework for peace;

—we must preserve the natural sources of life for ourselves and our children. We have inherited natural resources from our parents and we cannot allow them to be destroyed now. It is our moral duty to pass on what we have inherited and keep it in good shape;

—we must master new technologies and learn to apply them for the benefit of all states and nations in the service of man.

In view of the enormous dimensions of most recent developments, the risk of having these new technologies manipulated are of the greatest significance and we must ensure recognition of human rights and human dignity throughout the world.

What we need are new strategies which will meet these challenges now and for years to come. Twelve years from now we will live in the year 2000. This century was inaugurated with great hopes and has seen such misery and loss of life. We, on the threshold of a new century, together with all people of goodwill, are trying to live up to our responsibility to future generations. For their environment, for their opportunity at self-fulfilment, and their hope of living in human dignity, the decisions we are taking today will have an influence on their future. Future generations will judge us by whether we today are living up to that responsibility.

In history there are always periods in which far-reaching decisions are made. There is only a relatively short period of time when real decisions will be taken, very often over long distances. Nations have to suffer, to tolerate and accept the results of these decisions. We are living now in an age where such far-reaching decisions are being made. We should be aware of that and we should approach them together. In this context it is good to have exchanges with friends and partners who share the basic values, the basic faith, who share a vision of a peaceful and free world. While we have a common responsibility, it was in this spirit that I came here to meet and talk with friends, and I thank you very much for the friendly welcome you extended to me in your grand country. Thank you very much.

Some Hon. Members: Hear, hear!

[*Translation*]

Hon. Guy Charbonneau (Speaker of the Senate): Mr. Chancellor, Mrs. Kohl, we are indeed honoured by your address to our Parliament, especially since we had not had the privilege of receiving in these precincts the Leader of the Government of the Federal Republic of Germany, since your Basic Law of 1949.

[*English*]

We are proud to welcome to this Chamber an international colleague with such a remarkable political career. You were a militant democrat even before you were of an age to vote. While helping to organize a political Party, you found time to study law, political science, history, and sociology. You must have been able to be in more than one place at a time, and you do not seem to have lost that ability. Were you not equally at home in the Bundesrat and in the Bundestag? Are you not simultaneously Party Leader, coalition leader, and head of Government?

With your devotion to reform, liberalism, and modernism, you are the archetypal citizen of that borderless Germany we have grown to love and admire for its many great artists; Bach, Beethoven, Mendelssohn and Schumann; Stockhausen, Fortner and Schnebel; Goethe and Schiller, whose lines have been as familiar to us as Shakespeare's or Racine's; Henrich Heine, that colossus of universal literature, who delighted us when we were students because he took pleasure in extravagance and luxury; Thomas Mann, whose incomparable passages about snow almost entitle us to claim him as one of our own; and Bertolt Brecht, whose plays are so often performed in our theatres.

[*Translation*]

Your history, Mr. Chancellor, has often been one of sudden change. This was very much in your mind when you selected the subject of your doctorate thesis, namely:

The rebirth of political parties in Germany after World War II.

After 1945 you had to rebuild. Your controversial historian, Oswald Spengler, when he wrote *The Decline of the West* in 1920, had predicted, despite his pessimism, the important role Germany would have to play in the renewal of Europe, the source of our civilization.

Thanks to politicians of your stature, Europe was rebuilt, and perhaps we should say that a substantial part of the credit should go to your country. Where would the Common Market

be without your economic strength? Where would the North Atlantic Treaty Organization be without your determination, and where would the Council of Europe be without your strategic presence?

[*English*]

Your presence here is clearly an invitation to greater co-operation between our two countries. We already have so much in common: Democratic ideology, economic liberalism, a policy of detente and, I should add, our federal system of Government. While you are geographically in the uncomfortable position between East and West, we in Canada occupy a strategic area between the Soviet Union and the United States. From these observation posts, so to speak, we can more easily understand the fears which weapons engender in us.

Mr. Chancellor, we trust these expressions of friendship will convey to you not only the warm feelings with which our people regard the citizens of the Federal Republic of Germany, but also our respect and admiration for your sense of duty and your contribution to the well-being of your country.

[*Translation*]

Mr. Chancellor, we express our admiration for the modern country that you personify, and we offer our warmest thanks to you, as a statesman.

[*English*]

Mr. Speaker: Chancellor Kohl, on behalf of my colleagues in the House of Commons and other honoured guests present, I wish to thank you for your speech and to extend warmest greetings to you and to the citizens of your country. In this often troubled world the friendship between our two nations, the result of our co-operation to ensure peace and security, and our significant bilateral trade is an example of what can be accomplished.

[*Translation*]

Despite the distances that separate us and despite our cultural differences, our commonality of ideas provides a ready basis for bilateral discussions.

Our citizens have the same concerns about world peace, the humanitarian needs of developing countries, trade and acid rain.

The fact that our two countries work together within the United Nations, NATO and a number of specialized agencies is an important factor in helping to solve these problems, while it also consolidates our friendship.

[*English*]

Another factor which has helped to develop our friendship is the presence of Canadian servicemen and servicewomen and their families in the Federal Republic of Germany as part of our NATO commitment. I say to you, Chancellor, as a Canadian who served modestly in the Canadian Armed Forces in your country in 1953, your comments today about the children playing together and finding it impossible to believe that their parents or grandparents could have ever been at war were very touching.

Some Hon. Members: Hear, hear!

Mr. Speaker: Over the years the large number of Canadian personnel who have served in your country have returned to ours with a better awareness of your country's vibrant culture and dynamic economy. In the meantime, your people have become more aware of Canada, not just through that military presence but also because of the growing recognition accorded to its writers, artists, and film makers, and the increasing numbers of contacts with Canadian business representatives.

In short, the cordiality of our relations is not simply the result of diplomatic niceties, but of our commitment to mutual goals and the tolerance with which we treat each other's views. Such friendship between countries is something to be cherished in a world still faced with significant problems.

We have made much progress in recent months in slowing down the arms race and easing international tensions, but there are still many difficulties to resolve and numerous issues to consider. I can say on behalf of the Members of the House, Chancellor, that we have been heartened and impressed with your remarks about the environmental challenges which we as the people on the globe face and must face together.

Some Hon. Members: Hear, hear!

Mr. Speaker: As parliamentarians we have the responsibility of conveying to world leaders the needs and aspirations of the people we represent. We must also explain to the latter the complexity of the problems and the implications of the proposed solutions.

Parliamentary democracy can be carried out successfully in chambers such as these or in the present temporary premises where the debates of the Bundestag take place pending the reconstruction of your old Assembly Hall, but freedom of speech and sense of duty are the essential features, not a building or ceremonies.

Our shared conception of parliamentary democracy can only underline how much our two countries have in common. We are, therefore, most grateful to you for honouring us with your presence and for your statement of the aspirations of your country and the understanding that you have shown of the aspirations of ours. We have no doubt that the bonds between our two countries, already strong, will be strengthened as a result of your visit among us. Thank you very much and our blessings go with you.

Some Hon. Members: Hear, hear!

THE SENATE

Tuesday, June 21, 1988

The Senate met at 2 p.m., the Hon. the Speaker *pro tempore* in the Chair.

Prayers.

[*Translation*]

OFFICIAL REPORT

QUALITY OF TRANSLATION

Hon. Jacques Hébert: Honourable senators, I simply want to raise a point that our former colleague Senator Le Moyne raised angrily before, to the effect that the quality of the English-French translation of our speeches is less than we should consider acceptable.

So I say again what has apparently had no effect to date, namely how indignant I am that a bilingual country cannot find suitable translators.

I protest strongly and I want my protest to be considered. I do not know whom to address, but I must tell you that I am extremely disappointed to see that the efforts of Senator Le Moyne and others, like Senator Guay, in the past have not had any effect so far.

Hon. Senators: Hear, hear.

[*English*]

UKRAINE

MILLENNIUM OF CHRISTIANITY

Hon. Nathan Nurgitz: Honourable senators, throughout this summer, and particularly on August 1 of this year, Canadians of Ukrainian descent will be marking the millennium of Christianity in their homeland. I was especially anxious to bring this to the attention of the Senate since my home province of Manitoba is the adopted home of tens of thousands of people of Ukrainian descent.

It is known that the old state of Kievan Rus, now Ukraine, was officially Christian, in August of 988, when Prince Volodymyr, known as Volodymyr the Great, decreed that Christianity was the official religion of the region. Part of Ukrainian history tells us that August 1, 988, was the day upon which the citizens of Kiev were baptized in the Dnieper River. This year, 1988, represents the millennium of Christianity in the Ukraine.

There is some considerable evidence that Christianity existed in that region much earlier. In the writings of Nestor there is a reference to the year 944, when Prince Ihor concluded a treaty with the Byzantines, where persons had taken an oath upon the cross—a clear reference, or perhaps evidence, that as early as 944 there were Christians in that part of the world.

Legend has it that in the first century of the Christian era St. Andrew the Apostle was evangelizing in Kuban, the south-eastern part of contemporary Ukraine. It has also been established that during persecutions of Christians in Rome the fourth Pope, St. Clement, along with several hundreds of his followers, was banished to a region that is believed to be in the south of the present Ukraine. It was during that time and while in exile that missionaries of that group converted large segments of that population to Christianity.

The statehood of Rus was formed in the ninth century, when Kiev was then recognized as the political, cultural and economic centre of eastern Europe. In the year 860 Prince Askold of Kiev made an expedition to Constantinople, where he was somewhat impressed by the faith of the Byzantines, and, consequently, he and his warriors converted to Christianity.

After the assassination of Prince Askold in 882, his successor, Prince Oleh, seized the throne in Kiev, and once again there was pagan rule. What followed was not a pleasant period; it was one of religious persecution and terror. It was not until about the year 915, when Prince Ihor began to rule that state, that there was tolerance, calm and understanding. Notwithstanding the benevolent ruler, the state was divided between what they considered to be Christians and heathens, and both being somewhat formidable forces a form of civil war continued. In 945, history tells us, Ihor was succeeded by his wife, Princess Olga—a very benevolent ruler who not only tolerated Christianity but converted to it.

Princess Olga was succeeded by her son, again a less tolerant ruler. Good news did not come to the Ukrainian people until a grandson of hers ascended the throne, he being Prince Volodymyr, known in Ukrainian history as Volodymyr the Great. This young warrior brought peace to the region and, as I mentioned earlier, restored Christianity as the official faith. Volodymyr himself became a believer in the Christian doctrine and was baptized near Kiev in the year 987. In 988 he proclaimed officially that Christianity would be the state religion of Kievan Rus.

The social as well as the spiritual values of the Ukrainian people through the years have no doubt been influenced considerably by an adherence to the Christian faith. Much of Ukrainian culture displays this clearly.

Times have been difficult in the Ukraine. They were difficult a thousand years ago when Ukrainians were in the process of accepting the faith. They are difficult today in the struggle of the various Ukrainian churches—whether Ukrainian Catholic, Ukrainian Orthodox or the various Ukrainian Protestant denominations—to obtain religious freedom in their home country.

One can easily understand how symbolic it is to mark this great historical event and, in some way perhaps, to open the doors to the hope that those aspects of that culture that are religious will re-emerge and once more be able to flourish.

Honourable senators, I am sure that I speak for all members of this chamber, and perhaps for all Canadians, in extending best wishes to people of Ukrainian descent throughout the world for the very happy celebration of the millennium.

Some Hon. Senators: Hear, hear.

NATIONAL TRANSPORTATION ACT, 1987

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-131, to amend the National Transportation Act, 1987.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Tuesday next, June 28, 1988.

IMMIGRATION ACT, 1976

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore:* Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

HOUSE OF COMMONS
CANADA

Monday, June 20, 1988

ORDERED,—

That a Message be sent to the Senate to acquaint Their Honours that this House agrees with amendment 6(b) made by the Senate to Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, but disagrees with amendments 1(a), 2, 5, 6(a), 7, 8, 9(a), (b) and (c), 10, and 12(a), (b) and (c), because this House believes they contradict the principles of the Bill for the following reasons:

Amendment 1(a) would imply that the right to counsel of choice would no longer be subject to the requirement that the adjudicator assign counsel at the expense of the Minister where counsel of choice is not reasonably available; arguments over this erroneous implication could be used to delay the refugee determination process.

Amendment 2 would result in the recommencement of every hearing where the claimant indicates a fear of return only after substantive evidence has been heard, providing an opportunity for abuse by those who lack a credible basis for a claim or who would seek to delay or avoid removal by frustrating the "safe" third country mechanism.

Amendment 5 would introduce subjective elements which cannot be easily proven or rejected, thus opening a major loophole in the "safe" third country mechanism.

Amendment 6(a) arises out of Senate amendment 9(a), but is not consistent with the House amendment to Senate amendment 9(a), as set out below.

Amendment 7 would impair the effective elaboration of the "safe" third country list without improving the quality of the protection available to the claimant.

Amendment 8 would extend the scope and nature of Refugee Division hearings, significantly increasing the workload of the Division and thereby delaying decision-making for all claimants.

Amendments 9(b) and (c) arise out of Senate amendment 9(a), but are not consistent with House amendment to Senate amendment 9(a), as set out below.

Amendment 10 would change a fundamental principle that there be one high quality hearing on the merits of the claim by competent decision-makers, which hearing represents a proper balance between fairness and efficiency.

Amendment 12(a) would frustrate the selection of the best possible candidates, including present members, for each division of the new Board.

Amendments 12(b) and (c) are consequential on amendment 12(a), which is not acceptable, dand are therefore inappropriate.

And, that this House agrees with the principles set out in amendments 1(b), 3, 4 and 11, but would propose the following amendments:

Amendment 1(b) be amended to read as follows:

"Strike out line 25, on page 7, and substitute the following:

ready and able to proceed within a reasonable period of time, unless the"

Amendment 3 be amended to read as follows:

"Strike out lines 26 to 31 on page 14, and substitute the following:

ant's habitual residence,

(i) that has been prescribed as a country that complies with Article 33 of the Convention either universally or with respect to persons of a specified class of persons of which the claimant is a member, and

(ii) whose laws or practices provide that all claimants or claimants of a particular class of persons of which the claimant is a member would be allowed to return to that country, if removed from Canada, or would have the right to have the merits of their claims determined in that country;"

Amendment 4 be amended to read as follows:

"Strike out lines 3 to 15, on page 15, and substitute the following:

19(1)(j),

(ii) a person

(A) described in paragraph 19(1)(c), or

(B) who has been convicted in Canada of an offence under any Act of Parliament for which a term of imprisonment of ten years or more may be imposed

who the Minister has certified constitutes a danger to the public in Canada, or

(iii) a person described in paragraph 1(e), (f), or (g), or 27(1)(c) or (2)(c) and the Minister is of the opinion that it would be contrary to the public interest to have the claim determined under this Act; or"

Amendment 9(a) be amended to read as follows:

"Add, immediately after line 13, on page 43, the following:

(1.1) Subsection (1) does not apply with respect to a decision of a visa officer on an application under section 9, 10, 25 or 79 or to any other matter arising thereunder with respect to an application to a visa officer".

Amendment 11 be amended to read as follows:

"Strike out lines 25 to 27, on page 55 and substitute the following:

tion, the country's policies and practices with respect to Convention refugee claims and the country's record with respect to human rights;".

and

That Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, be further amended in Clause 14

(a) by striking out line 38 at page 18 and substituting the following therefor:

"landing of that person and any member of that person's family who is in Canada at the time of the application, unless the Convention refugee is"

(b) by striking out lines 24 to 26 at page 19 and substituting the following therefor:

"cant and any member of the applicant's family for whom landing is sought if the immigration officer is satisfied that neither the applicant nor any member of the applicant's family who is in Canada is a person"

(c) by adding, immediately after line 8 at page 20, the following:

"(8) for the purposes of this section and section 48.05,

(a) a person is a member of another person's family if the person is

(i) the spouse of that other person, or

(ii) the child of that other person, or

(b) "child", with respect to a person, means

(i) a person of whom that person is the natural parent, whether the person was born within or outside marriage, and who has not been legally adopted by any other person, and

(ii) a person who was legally adopted by that person,

but does not include any person who is or has been married;

(c) "spouse", with respect to a person, means a person of the opposite sex to that person who is married to that person by a marriage that is recognized by the law of the country in which it took place, other than a marriage occurring at a time when either person was already married."

(d) by striking out line 17 at page 20 and substituting the following therefor:

"mining eligibility to be grant—"

(e) by striking out line 23 at page 20 and substituting the following therefor:

"for a determination whether the person or any member of that person's family who is in Canada at the time of the application is,"

(f) by striking out line 28 at page 20 and substituting the following therefor:

"shall determine that the applicant and any member of the applicant's family for whom landing is sought is, but"

(g) by striking out line 32 at page 20 and substituting the following therefor:

"member of the applicant's family who is in Canada is a"

(h) by striking out lines 12 to 15 at page 21 and substituting the following therefor:

"(d) the person or any member of the person's family for whom landing is sought was determined not to be eligible to be granted landing for a reason other than the removal order; or

(e) the person and each member of the person's family for whom landing is sought were determined to be,"

(i) by striking out lines 25 to 29 at page 21 and substituting the following therefor:

"(a) grant landing to the person and each member of the person's family for whom landing is sought, where the person is a person described in paragraph (5)(d) or (e) and the adjudicator is satisfied that, but for the removal order, the person and each member are eligible to be grant—"

and

That the Bill be further amended in Clause 18 by striking out line 37 at page 28 and substituting the following therefor:

"hold office during good behaviour for a term not"

and

[The Hon. the Speaker.]

That the Bill be further amended in Clause 29 by adding immediately after line 46 at page 55 the following:

"(7) Section 115 of the said Act is further amended by adding thereto the following subsection:

"(5) The Minister may establish and appoint the members of a committee to advise the Minister with respect to the prescribing of countries under paragraph (1)(r)."

and

That the Bill be further amended by adding immediately after line 31 at page 56 the following:

"32. Section 123 of the said Act is repealed and the following substituted therefor:

"123. The Minister or the Deputy Minister, as the case may be, may authorize such persons employed in the public service of Canada as the Minister or the Deputy Minister deems proper to exercise and perform any of the powers, duties and functions that may or are required to be exercised or performed by the Minister or the Deputy Minister, as the case may be, under this Act or the regulations, other than the powers, duties and functions referred to in paragraphs 19(1)(e) and (2)(a), sub-sections 39(2) and 40(1), subparagraph 48.01(1) (e) (iii) and subsections 82.1(2) and 83(1), and any such power, duty or function performed or exercised by any person so authorized shall be deemed to have been performed or exercised by the Minister or Deputy Minister, as the case may be."

ATTEST

ROBERT MARLEAU
The Clerk of the House of Commons

Honourable senators, when shall this message be taken into consideration?

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

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): 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, June 28, 1988, at 2 o'clock in the afternoon.

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

Hon. Senators: Agreed.

Senator Doody: Honourable senators, the reason for the motion is as follows: In our discussion on Thursday last it was indicated that the committees could take advantage of the availability of this afternoon, when the Senate rises, and tomorrow afternoon and Thursday afternoon to get on with meetings to handle the government business that is before them.

Hon. Royce Frith (Deputy Leader of the Opposition): "Get on with" or "continue with"?

Senator Doody: "Continue with"—a much better choice of words. I appreciate the help. Some honourable senators on this side, it should be reported, liked my first choice better.

I am pleased to say that the committees have a very full schedule for the rest of this week. I notice that there are 18 meetings scheduled for today, tomorrow and Thursday.

I am told that on Thursday evening there will be a vote in the other place respecting a supply bill, and that that supply bill should be before the Senate on Tuesday of next week. I think we shall manage to get through that on Tuesday.

We shall also have before us on Tuesday next Bill C-131, to amend the National Transportation Act, 1987. I understand that that is not a contentious piece of legislation but deals with access by the disabled. We still have Bill C-77 before a Committee of the Whole. I am told that we will be dealing with that later this afternoon. It is not the intention of that committee to conclude its work this afternoon, because there is other work to be done on Bill C-77, but I hope that we will be able to deal with that on Tuesday of next week.

• (1410)

Beyond Tuesday, we shall see what develops in terms of the sittings and of committee work and we will report on Tuesday where we stand at that time.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I have only one comment to make with respect to Bill C-77. It is on the order paper and will be the subject of discussion later today. A suggestion has been made that we may be able to complete discussion on the bill next Tuesday. I think we can give consideration to that. Unless some unforeseen difficulty crops up in the meantime, I think it ought to be possible.

Senator Doody: Thank you.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

ECONOMIC SUMMIT, 1988

MEASURES TO RELIEVE THIRD WORLD DEBT—AFFECTED COUNTRIES—APPLICATION TO LATIN AMERICAN COUNTRIES

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I have one question for the Leader of the Government. Information is coming out of the Summit in

Toronto that the summit leaders have agreed on measures to relieve the Third World debt.

It is not clear whether any of these measures apply to the Latin American debtors like Brazil, Mexico and so on. Can the minister today, or at some later date, give us some detail on which countries will be affected by the proposals and whether the Latin American debtors will be in any way affected by them?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Prime Minister will be making a statement at 3.30 this afternoon, and I would not scoop him even if I could. I am not in a position at the moment to answer the question the Leader of the Opposition has put, but I shall bring that information into the house tomorrow.

AGRICULTURAL SUBSIDIES—REQUEST FOR PROGRESS REPORT

Hon. H.A. Olson: Honourable senators, I wonder if the Leader of the Government would give an undertaking that he will bring in an update on the progress that was made at the Summit respecting the agriculture subsidy issue, which was, we understand, one of the major items before that meeting.

I do not expect him to try to scoop his Prime Minister here today either, but I would ask him to bring in a more complete explanation of what progress was made, because obviously, judging by the reports in the paper, some of the people trying to write those reports do not understand the language, let alone the substance of the reasons why this subsidy situation is in the shape it is in today.

We understand that some offers have been made by countries other than the United States to try to extricate themselves from this enormous subsidy program. It would be useful if we could know the various aspects of those offers and have some detail of who made them.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall table the communiqué from the Summit at the earliest opportunity. If there is any further information with regard to the specific subject the honourable senator has raised, I shall bring it into the house at that time.

Senator Olson: I appreciate that reply.

AGRICULTURE

WESTERN CANADA—DROUGHT CONDITIONS—GOVERNMENT ASSISTANCE

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government to give us an indication of the federal government's intentions with respect to a relief program for the farmers and ranchers in western Canada, particularly livestock men, who are having a great deal of difficulty because of the drought.

I want the minister to know that I heard what the Minister of Agriculture had to say about the situation yesterday, and I appreciate the effort that he, his officials and the coordinating committee with the provinces are making. Unfortunately, governments keep saying they are going to do something, but so far they have not announced anything, with the exceptions of the Governments of Alberta and Saskatchewan, which have announced some program—or, at least, the expanded financing of a program—for water development.

The point I want to convey to the Leader of the Government, and I hope he will carry it to his colleagues, is that a great number of livestock producers out there have already faced a crisis. Unfortunately, they are doing what I feared they would have to do. Two to three weeks ago they completely ran out of grazing, hay and other feed supplies for their livestock. Therefore, they are having to disperse their herds.

Honourable senators, I am sure the Leader of the Government and the Minister of Agriculture agree that it is unfortunate that these herds have to be dispersed. It is true that some areas have had rain and that not every area is as bad as it was, but I am telling the Leader of the Government that, if he looks at the situation objectively, he will see that over 90 per cent of the affected area in the three western provinces is not only just as bad but is worse this week than it was last week and the week before.

Honourable senators, I do not expect an answer today because I heard what the Minister of Agriculture had to say yesterday. But I would certainly like to impress upon the Leader of the Government—and I request that he carry this to his colleagues—that there are thousands, and there will more thousands with every day that passes, who are getting into a desperate situation in trying to maintain the cattle herds that are left.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, a number of announcements have been made by the federal government and by provincial governments with regard to the drought situation in western Canada. As to what federal-provincial policies or programs would be appropriate to relieve the situation facing livestock producers, that matter is still under consideration by the government.

Senator Olson: As a supplementary question, would the government leader give us an undertaking that he will carry to his colleagues this message from someone who spent last week travelling around that area: This situation is truly desperate. I hope that some movement can be made towards a plan of action instead of some sort of continuing plan that "something might be done" and "we are still studying the matter." Some people are really experiencing desperation—I do not know how else to say it in order to get the Leader of the Government to agree that he will carry that message to the Minister of Agriculture in order to get some action started now.

Senator Murray: Honourable senators, when we do have an announcement to make, we will couple that announcement with a clear statement of the facts. The honourable senator and I will have an opportunity to compare notes on the matter at that time.

Senator Olson: Honourable senators, I hope the Leader of the Government is not attempting to dispute the facts as I have laid them before this house—I am sure he is not—but, if this is a matter of interpretation, the interpretation of many thousands of Canadians is that the crisis is now, that it started last week and the week before that—not at some prospective date.

WESTERN CANADA—DROUGHT CONDITIONS—HERD MAINTENANCE PROGRAM

Hon. Hazen Argue: Honourable senators, I wonder if I might ask a supplementary question. Based on the precedent of the droughts of 1980 and 1985, it seems to me that the most important program that could be put in place would be a herd maintenance program or a payment per brood cow that could be maintained.

I ask the minister this question: Is the matter of a herd maintenance program of perhaps $60 per brood cow under active consideration? When might we expect an announcement in that regard? I think the producers want from the government not only the payment itself, which is important, but a signal from the government— which this payment would be—that the government believes the livestock industry is extremely important and that the herds should be maintained in spite of the drought. Can we expect an announcement quickly?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the government is considering the various options open to it and to its provincial counterparts in this matter. I shall take the honourable senator's question as a representation.

● (1420)

LAPRADE FUND

ORDER PAPER QUESTION NO. 6—REQUEST FOR ANSWER

Hon. B. Alasdair Graham: I should like to ask a question of the Leader of the Government in the Senate. I find it embarrassing to rise on this particular question, and it might even be embarrassing for the Leader of the Government to respond.

On February 3, 1987, I placed a question on the order paper concerning the LaPrade Fund. Since that time, on one or two occasions I raised questions with the Leader of the Government as to why we were not receiving an answer. Those questions are now 16 months old. They seem quite straightforward.

To refresh the minister's memory, there were seven parts to the question that I asked.

(i) when was the Fund established and for what reasons;

I do not think that would be too difficult to answer.

(ii) how much money is currently in the Fund;

That should not be too difficult either.

(iii) what was the original amount allocated to the Fund and what criteria determined that amount; (iv) have any sums been spent from the Fund and, if so, for which projects and where; (v) is spending for the Fund restricted to a particular area of Canada and, if so, what are the boundaries of the area and how are such boundaries determined; (vi) what are the criteria, if any, for the projects which can become eligible for funding; and (vii) what changes, if any, have been made in the concept and administration of the Fund since September 1984?

I am wondering if there are any deep, dark secrets surrounding the LaPrade Fund; what is the reason that it should take more than 16 months to provide an answer?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am sure there are no deep, dark secrets surrounding the fund. I shall have an inquiry go forward with regard to the honourable senator's question.

TRANSPORT

PRINCE EDWARD ISLAND—STATUS OF CN RAIL SYSTEM—PROSPECTIVE FEDERAL-PROVINCIAL AGREEMENT

Hon. M. Lorne Bonnell: Honourable senators, on June 14, 1988, I asked the Leader of the Government a question concerning the railroads in Prince Edward Island. The headlines of the Charlottetown *The Evening Patriot* on Monday, June 20, 1988, read, "Newfoundland loses its railway; 'P.E.I. is next'". In today's *Charlottetown Guardian* it states:

> Federal Trade Minister John Crosbie says P.E.I.'s rail system is 'practically moribund' but it is up to Prince Edward Island to decide on whether to abandon it. Mr. Crosbie was replying to a question on the Island rail system during a St. John's, Nfld. news conference Monday called to announce that the Newfoundland railway is being written out of existence with the signing of an $800-million federal-provincial deal.

Could the Leader of the Government in the Senate advise me whether or not there is an agreement to be signed between Prince Edward Island and the Government of Canada abandoning all rails in Prince Edward Island?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators. When I was in Prince Edward Island the other day I inquired of a number of leading officials of the government when was the last time they had seen a train. They thought it had been several weeks ago, when it ran into a Canada Packer's truck.

Senator Bonnell: Honourable senators, for a long time in Prince Edward Island the CNR has been attempting to give poor service so that no one will use its service. Let me assure you that it will take three tractor trailers to haul one boxcar of potatoes. Of course, they will be hauled via the road system, and the road system in Prince Edward Island has a poor base. We certainly need rails for freight.

I notice that the rails are being taken up. There must be some kind of agreement signed when the rails are being removed in Prince Edward Island. Why are they removing

those rails, and where does the authority come from to remove them?

Senator Murray: Honourable senators, the situations in Newfoundland and Prince Edward Island are different. It is a constitutional question that is being dealt with in Newfoundland. I am not aware that a federal-provincial agreement would be necessary for CN Rail to do what the honourable senator says it is doing. There is another process involved under our law for that.

I was in Prince Edward Island to meet with the premier and ministers concerning a new round of economic and regional development agreements with that province. While we have a highways agreement with Prince Edward Island, the subject that the honourable senator is raising would be outside the scope of an ERDA agreement. It is not, strictly speaking, a matter of regional development, but one of national policy, and I undertook to draw to the attention of my colleague the Minister of Transport the representations made to me by the premier.

Senator Bonnell: Honourable senators, it is my understanding that when Prince Edward Island joined Confederation we were promised continuous communication with the mainland and the completion of the railway that Prince Edward Island had started before Confederation. That was not a promise to remove it completely, but to complete the construction of the railroad. Yet we now see it being removed. The Minister for International Trade, Mr. John Crosbie, says that we will lose it; it is next.

If I were negotiating on behalf of Prince Edward Island, I would not accept an $800 million fund for the railroad, because I think we need some funds in perpetuity. The roads in Prince Edward Island will not stand that kind of traffic for any length of time. We can build them for a ten-year period, but ten years down the road they are gone again. We need funds in perpetuity, and some kind of assurance that the railway will be there to take the heavy burden of traffic in Prince Edward Island.

I should like the Leader of the Government in the Senate to assure me that no agreement will be signed without our first being informed in the Senate, as members of Parliament, so that we shall have an opportunity to appear before some public hearing to defend the rights of the railroad in Prince Edward Island.

Senator Murray: Honourable senators, with regard to what my honourable friend reports as the present activity of the CNR in Prince Edward Island, there is no agreement of any kind between the Government of Canada and the Government of Prince Edward Island, because there is no need for such an agreement.

Senator Bonnell: Honourable senators, I am not 100 per cent sure of all the information that the minister has, because Ken MacKenzie, Director of Communications and Transportation for Prince Edward Island, states in this news release—maybe he can assure me that it is wrong—that:

[Senator Bonnell.]

> Canadian National is in the process of preparing to abandon all remaining railway lines on the Island.

Is there any truth to that statement?

Senator Murray: Honourable senators, that was not the question the honourable senator asked. The question the honourable senator asked was whether there was an agreement to that effect between the Government of Canada and the Government of Prince Edward Island. The answer is in the negative.

Senator Bonnell: Are the government and the CNR preparing such an agreement and getting ready to do it? It says here that they are "in the process of preparing to abandon all remaining railway lines on the Island." Are they in the process of preparing to abandon them?

Senator Murray: Honourable senators, the government is not in the process of preparing to abandon anything. If the CNR, as he puts it, is in that process, there is, as I understand the act—or used to understand it—a public process that they have to go through in order to effect that kind of abandonment. For greater certainty, I shall ask for a report from the minister who reports to Parliament for Canadian National.

Senator Bonnell: Thank you.

TIBET

DALAI LAMA'S FIVE-POINT PEACE PLAN AND NEW INITIATIVE—GOVERNMENT POSITION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, may I ask if there are any delayed answers today?

Hon. C. William Doody (Deputy Leader of the Government): Yes.

Senator Frith: Does one of them deal with my question about Tibet?

Senator Doody: No.

Senator Frith: I ask because I have a supplementary question.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Department of External Affairs advises me that we are concerned about human rights issues in Tibet. The department reminds us that the Prime Minister raised human rights matters in China during his May 1986 visit.

I am informed that, after the riots of last fall, the Canadian Embassy in Peking and officials in Ottawa conveyed to the Chinese authorities Canadian concerns about the human rights situation in Tibet, and we repeated our concerns this spring.

The department reminds me that in 1970, when Canada recognized the Government of the People's Republic of China as the sole government of China, it recognized that this government had effective control over Tibetan territory. Thus, as far as Canada is concerned, Tibet is an autonomous region

of the People's Republic of China, as established in the Chinese Constitution.

● (1430)

Similarly, while we do regard the Dalai Lama as a senior world religious figure and important Tibetan figure, we do not recognize him as the temporal ruler of a Tibetan state.

Thus endeth my briefing note from the Department of External Affairs. If my learned friend wishes some further information, I will undertake to obtain it for him.

Senator Frith: Honourable senators, I should like some more information, not because I consider Senator Murray's reply to my question to be wholly unsatisfactory but because it only establishes the background and brings us up to date on Canada's formal position on China's effective control over Tibet.

My question was about the proposal made by the Dalai Lama for a five-point peace plan. That plan can be responded to in spite of the formal recognition of Tibet as a part of China. If I am not mistaken, the other countries that supported the peace plan also recognized the *de facto* and *de jure* control of China over Tibet.

So, will the government leader ask his colleague the Secretary of State for External Affairs whether, just because of Canada's formal diplomatic position, the government does not feel that it can support the five-point peace plan put forward by the Dalai Lama?

At the same time, perhaps the Leader of the Government in the Senate would ask about a subsequent event, amounting to a corollary to the first peace plan, when, on the fifteenth of this month, the Dalai Lama announced a new initiative in efforts to resolve peaceably the worsening situation in Tibet. He did that in an address to the European Parliament in Strasbourg.

Senator Murray: Honourable senators, I shall make inquiries of my colleague and advise the honourable senator.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have three delayed answers and, unless honourable senators request otherwise, I shall ask that they be printed as part of today's proceedings.

NATIONAL GALLERY OF CANADA

CHILD-CARE FACILITIES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on May 18 last, by the Honourable Lorna Marsden, regarding the National Gallery of Canada—Child-Care Facilities.

(*The answer follows:*)

The new National Gallery of Canada does not have a child-care centre.

It is the philosophy of the National Gallery of Canada to welcome people of all ages, to encourage parents to bring children and expose them to art at the earliest age possible.

The Gallery has taken several initiatives to encourage and accommodate families. The Education Department, for example, has a wide spectrum of programs for varying age levels. Washroom facilities have been equipped with diaper change-tables and, for parents with babies and toddlers, the Gallery is making available, free-of-charge, sturdy strollers for the comfort and enjoyment of its visitors, both big and small.

It is hoped that with these measures, visitors will come to view the National Gallery as a family-oriented facility, one which encourages young and old to participate together in discovering and exploring Canada's artworks.

EMPLOYMENT EQUITY

COMPLIANCE WITH ACT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 2 last, by the Honourable Lorna Marsden, regarding Employment Equity—Compliance with Act.

(*The answer follows:*)

As of June 14, 1988, 305 employers covered under the Employment Equity Act had delivered their employment equity reports. The current estimate of the number of federally regulated companies who at some point in 1987 had 100 or more employees, and are required, therefore, to submit a report, is 406 (the number of employers required to report may change as further information is obtained). The 305 reports received to date represent over 75 per cent of the total expected. A warning letter was mailed on June 2. On June 17, a demand letter was sent to any employers whose reports are still outstanding according to the records of the Employment Equity Branch, Employment and Immigration Canada. Follow-up phone calls are being carried out by regional and headquarters staff.

There is an enormous effort being made to ensure full compliance with the legislation. This is the first year of employment equity reporting. The reporting format has been designed to provide meaningful data by which to assess the results of mandatory employment equity planning and implementation by crown corporations and federally regulated employers. It is critical that the information contained in employers' reports be correct in order for the reports to be useful to the public, to advocacy groups and to the Canadian Human Rights Commission. The Employment Equity Branch is involved not only in receiving reports but also in reviewing, requesting corrections and analysing the information in preparation for the minister's report to Parliament this year.

The Employment Equity Branch has taken a fair but firm approach to employers whose reports have been late, incomplete, or otherwise unacceptable.

Unlike their federal counterparts, who are subject to the full disclosure requirements of the act, the performance of companies under the jurisdiction of the federal contractors program is assessed through on-site compliance reviews.

Currently 1,057 organizations have certified their commitment to the program. While 513 companies have received contracts, making them subject to a compliance review, the selection of organizations for compliance reviews is done at random. In cases where an organization is found not to have complied with all criteria at the time of the initial on-site review, a process of negotiation is initiated, giving a company up to 12 months to complete the mandatory work. Compliance reviews started in September 1987. There are currently 88 reviews in different stages of process.

AGRICULTURE

PRINCE EDWARD ISLAND POTATO INDUSTRY—GOVERNMENT ASSISTANCE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 7 last, by the Honourable M. Lorne Bonnell, regarding Agriculture—Prince Edward Island Potato Industry—Government Assistance.

(*The answer follows:*)

The federal government has, in the past, shared the cost of special assistance programs when crop insurance was not available or not adequate and where crop losses were serious, widespread and of a sufficient magnitude to be a financial burden to a province.

Fortunately, crop insurance is available to provide Prince Edward Island farmers with financial protection in the event of serious crop losses.

In 1987-1988, in Prince Edward Island, one potato grower out of three (200 out of 600 commercial growers) chose to purchase crop insurance, and nearly half the acreage (28,500 acres out of 64,000) was insured. Indemnities of $3.8 million were paid to Prince Edward Island potato growers, and close to half this amount was paid to farmers of the western part of the Island who suffered losses due to drought.

Adequate crop insurance protection was available in Prince Edward Island and farmers who were insured were compensated for their losses.

NON-SMOKERS' HEALTH BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honurable Senator Guay, P.C., for the third reading of the Bill C-204, An Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising.—(*Honourable Senator Flynn, P.C.*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, last week Senator Flynn said that he would not object to interventions on this bill in spite of the fact that it stands in his name. I think he told us that he might be ready to proceed today, but that he might be late. Therefore, honourable senators, I propose to accept Senator Flynn's invitation and make an intervention on Bill C-204.

Honourable senators will remember the legislative history. The bill came to us only recently. It was debated here with only one intervention—I believe it was that of the Honourable Senator Haidasz. It was then referred to the Senate Committee on Social Affairs, Science and Technology. It reported the bill without amendment.

Senator Phillips: And without study.

Senator Frith: At the time the committee reported the bill without amendment. Royal Assent had been scheduled for later that day. We on this side agreed to waive notice and let the bill go at third reading in order that it might receive Royal Assent that day. That offer was not accepted by the government.

Subsequently, and although committees are not normally involved at third reading stage, the government said that some questions had been raised about the drafting of the bill and that it needed to look into them and even to refer it back to committee. I made some inquiries about the concerns referred to by the Deputy Leader of the Government and by others regarding the drafting of the bill. I understand that the Law Clerk of the Senate has two reservations in particular. I want to make it clear that I do not object at all to the Law Clerk's raising these points. To do so is within his scope and, indeed, is his duty. I must also say that I cannot finally and completely lay those concerns to rest, but for reasons I hope to make clear I believe we ought to give the bill third reading.

As I understand it, the first concern raised by the Law Clerk of the Senate is the problem of the indemnity of the Crown. He feels that the bill might allow the Crown to be charged and fined in cases where it fails to provide a smoke-free environment to crown employees. The bill was drafted by the Law Clerk of the Commons, who also recognized this problem. He relied on precedents cited in a book by Professor Hogg, entitled *Liability of the Crown*, suggesting that while the provision might be unusual it was an allowable provision. I would point out that we recently approved Bill C-74, which also applies to the Crown. I suggest that the Crown may have no indemnity from the provisions of the Canada Labour Code,

which is the statute most relevant to the employment sections of Bill C-204.

The second concern of the Law Clerk of the Senate is about the adding of tobacco products, as item 5, to the Hazardous Products Act. Subclause 9(1) of Bill C-204, which is rather unusually worded, deals with the addition to that act of tobacco and other products, such as snuff and chewing tobacco, although it does not define them in those exact words. Subclause 9(2) is also rather unusually worded; it deals with the contingent application of Bill C-204, depending upon the passage of Bill C-51. According to my information, subclause 9(1) was drafted by Health and Welfare Canada and later modified by a law clerk in the House, who reinserted the proposed amendment to add item 5 to the Hazardous Products Act. It may well be that this is a drafting error, but it is doubtful that this clause will be in effect under the legislative circumstances I have just described. I think it is arguable that the government might soon introduce a bill to delete clause 9 in any event, because the idea of having a product on the hazardous products list that is controlled by another statute is not attractive.

• (1440)

As I understand it, the next objection is from Via Rail, which is that, if there were only one car on a train, it would have to be a non-smoking train, and Via feels it might lose customers. I can understand the concern, but I point out that Canadian international airlines and bus lines, such as Grey Coach and many others, have gone non-smoking and have told the world that they have experienced no loss of business as a result. I do not believe that Via has any specific or separate studies to back up its claim that it would lose money. This is not to dismiss the concern of Via Rail, but it seems to me that there are enough arguments against their concern that we should not be persuaded to withhold third reading, given the bill's legislative circumstances.

There are some other concerns, apparently, among the officials of Transport Canada and Labour Canada. I have been told that these officials have been approaching legislators and telling them that there are drafting flaws in the bill that need to be corrected before their respective departments will be able do their jobs. Apparently, this suggestion was first raised here, although these officials, I am informed, were present during the clause-by-clause review of Bill C-204 and, essentially, drafted the clauses of the bill that relate to their departments. It seems to be a matter of second thought.

Honourable senators, it is clear to me that Bill C-204 has some legal warts that might mar the dermatology of its legal elegance.

Senator MacDonald: I wish I had said that.

Senator Frith: Honourable senators, if there were any copyright on remarks made in this chamber, which I do not think there is, I would certainly license Senator MacDonald if, at any future date, he wanted to use that phrase.

In spite of these concerns, I believe that we should give this bill third reading soon; in fact, I suggest that we give it third reading next week and have no further adjournments. I say that because of the legislative context I have referred to. This is a private bill; if it does not receive third reading, or it is sent back to the House of Commons with any amendments, the chance of its finding its way to the top of the private members' list in the House of Commons is very remote. In effect, amending this bill kills it.

That is not so with regard to Bill C-51, which may require a technical change. That is a government bill, and when it is returned it will not have to find its way to the top of the list of bills to be dealt with by the laws of chance and time that apply to private members' bills.

To restate my proposition, honourable senators, I believe that the problems, quite properly raised by the Law Clerk of the Senate, and by the Deputy Leader of the Government because they were brought to his attention—and I think it was quite correct of him to raise them before the Senate—are not of sufficient importance for us to send this bill back or to delay third reading any longer, when we realize that doing so may very well kill the bill. I believe the bill has a great deal of support both here and in the House of Commons.

Some Hon. Senators: Hear, hear!

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I would move the adjournment of the debate in the name of Senator Flynn.

Senator Frith: Honourable senators, although we are going to support that motion, I want to underline that I have discussed the points I raised here with my colleagues and we wish to have no further adjournment of the debate at third reading. We want the question put next week.

Senator Doody: Honourable senators, I cannot make any commitment one way or the other. I take notice of what Senator Frith has said, but, nevertheless, this order did stand in the name of Senator Flynn and I think it is only fair that it be adjourned in his name.

Senator Frith: I did not expect to receive a commitment. I was simply advising the deputy leader of our position.

On motion of Senator Doody, for Senator Flynn, debate adjourned.

PATENT ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Bonnell, seconded by the Honourable Senator Petten, for the second reading of the Bill S-15, An Act to amend the Patent Act.—(*Honourable Senator Barootes*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators will remember that last Thursday I advised the Senate that Senator Barootes called to inform me that he wanted this matter put over for another week. I discussed the matter with him and he agreed, admittedly reluctantly, that he would raise his objections before the committee.

Therefore, I repeat that our position is that this bill should receive second reading and be referred to committee where a number of these differences about statistics and principle can be thrashed out. We therefore ask for adoption of the motion for second reading of this bill.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

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

On motion of Senator Bonnell, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

EMERGENCIES BILL

CONSIDERATION IN COMMITTEE OF THE WHOLE CONTINUED

On the Order:

> The Senate again in Committee of the Whole on the Bill C-77, An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof, the Honourable Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, the Senate is now in Committee of the Whole to consider Bill C-77. This afternoon we have a witness who wishes to appear before the committee. I understand that the witness is available; so we shall await her entry into the chamber.

Pursuant to the Order adopted by the Senate on June 8, 1988, Ms. Ann Sunahara, Legal Counsel, National Association of Japanese Canadians, was escorted to a seat in the chamber.

The Chairman: Our witness this afternoon, honourable senators, is Ann Sunahara, barrister and solicitor, appearing on behalf of the National Association of Japanese Canadians. A copy of a letter from Ms. Sunahara has been distributed to all members of the committee.

I welcome you to our committee, Ms. Sunahara. Our normal practice is to have an introductory statement by the witness of some 15 minutes and then to proceed with questioning by honourable senators. If that is agreeable, we are ready to proceed.

● (1450)

Ms. M. Ann Sunahara, Legal Counsel, National Association of Japanese Canadians: Thank you, sir. I thank the Senate for giving the National Association of Japanese Canadians an opportunity to offer comments on Bill C-77.

[Senator Frith.]

The National Association of Japanese Canadians, as you probably know, is the democratically elected representative of Canada's 56,000 Japanese Canadians. Japanese Canadians have a very special concern about emergency measures legislation, being among the best-documented victims of the War Measures Act. The National Association of Japanese Canadians regards Bill C-77 as part of an attempt to redress what happened during the Second World War. Reform of the War Measures Act is something that the National Association has been seeking since 1945.

The National Association of Japanese Canadians is determined that any reform of the War Measures Act must prevent a recurrence of what happened to Japanese Canadians. As you know, 20,881 men, women and children were uprooted from their homes in February of 1942, processed through detention camps in British Columbia and the sugar beet fields of Alberta and Manitoba, and forced to choose between moving east of the Rocky Mountains or being deported to Japan. Their property was sold and the proceeds were used to pay for their incarceration. They were not permitted to return to their homes on the Pacific coast, or to enter British Columbia, until 1949. Even those Japanese Canadians who were finally able to get into the armed forces were not permitted to return to B.C. before 1949.

Consequently, I was asked by the National Association of Japanese Canadians to prepare an analysis of the Emergencies Act. We presented a 61-page brief to the legislative committee on Bill C-77, a copy of which will be made available to any senator who wishes it.

Many of our concerns in that brief were met by the other House in its amendments. Our principal concerns were with the definitions of the types of emergencies and with Parliament's ability to control the executive when exercising emergency powers and to revoke inappropriate orders in council.

Two of our concerns were not met. Our first concern is with secret orders, which we feel are both unnecessary and unwise and are already provided for in the CSIS Act. Our second concern—and what brings me here today—is with the Charter override which we see within this act.

You have received through the material I submitted my legal opinion of the minister's reasons as to why there is no Charter override. In brief, using the War Measures Act cases, our argument is that Parliament has the power to delegate to a subordinate body anything within its powers. It did so in the War Measures Act, delegating what has been termed by the courts to be "plenary powers of legislation". In other words, the cabinet, by order in council, could legislate as if it were Parliament, using any of the federal government's powers to legislate.

Since the Second World War, of course, and since October 1970, when the War Measures Act was last used, Parliament has gained one more power, the power to pass orders or laws that override certain Charter rights, the fundamental freedoms, equality and legal rights. That means that Parliament, of course, can now pass laws that take away the right to trial,

that take away the right against unreasonable search and seizure, that take away the presumption of innocence until proven guilty, that take away the right of assembly, the right of free speech and freedom of the press. These are serious and necessary rights in our society.

• (1500)

It is our submission that the powers delegated to the executive under the proposed Emergencies Act are as broad as they were under the War Measures Act. Since Parliament is not precluded from delegating its powers under section 33 of the Charter, it is our position that, by that broad delegation of powers in the proposed Emergencies Act, Parliament has delegated to the cabinet, or will if the bill is passed, the power to pass orders in council having the effect of statutes that can override Charter rights. The mechanism is to put the correct phrasing within the order in council in order to make it specific enough, define which rights, and so forth, as required by section 33. But, in the absence of an express provision withdrawing that right from the executive under the proposed Emergencies Act, the executive can pass orders in council overriding Charter rights.

The law in the matter is set out, in my opinion, with case references and in a way I hope is not too legalistic. It is because of this danger that the National Association of Japanese Canadians is requesting this house to amend clause 4 of the act to include a subparagraph (c) which would specifically withdraw from the executive the power to invoke section 33 of the Canadian Charter of Rights and Freedoms in any order in council it makes under the proposed act.

The best solution, of course, would be a Charter amendment, but since that is not immediately available we ask that this house protect the rights of Canadians and define the limits of the powers of the executive under the proposed Emergencies Act to restrict them from using a Charter override.

Those are my submissions.

The Chairman: Thank you, Ms. Sunahara. The first name I have on my list is that of Senator Stewart (Antigonish-Guysborough).

Senator Stewart (Antigonish-Guysborough): Thank you, Mr. Chairman.

You mentioned that the bill now provides for a good deal of parliamentary control over the activities of the Governor in Council. Evidently you are familiar with the experience of Japanese Canadians during the 1939 to 1945 period. Do you think that the provision of similar controls in the War Measures Act would have been helpful to Japanese Canadians at that time? I am not, of course, talking about the provision of clause 4(b); I am talking about what we may call parliamentary surveillance.

Do you believe that in the political mood of those times that kind of parliamentary surveillance would have been of any use at all in the protection of Japanese Canadians?

Ms. Sunahara: I think the best answer to that is found in the attempt to deport Japanese Canadians in 1945. In October of 1945 Parliament refused to allow the right to deport Canadians to be included in the National Emergency Transitional Powers Act of 1945. The government withdrew the clause in that bill that would have given them that power, saying that Parliament would be consulted if there were to be any move to deport anyone from Canada. In a House depleted by the Christmas recess three weeks later, the government tabled an order in council, under the War Measures Act, deporting 10,000 Japanese Canadians, because at that point Parliament had no control over any order in council. That order in council was automatically continued by the National Emergency Transitional Powers Act of 1945. I think that is the best example. The Canadian Parliament had spoken and had told the government not to deport Canadians, and the executive turned around and tried to do exactly that.

I may add that there was a happy ending to that; two years later, after massive public objection, the deportation of Japanese Canadians was halted and the order withdrawn.

Another example was the order in council selling Japanese Canadian property. That was put before the House of Commons on the advice that it was to enable the custodian of seized property to dispose of certain depreciating properties, and, the implication was, with the consent of the owners. Everything was ordered to be sold two months later. Everything was ordered sold: real property, personal property, everything! The House of Commons and the Senate could do nothing about it.

Senator Stewart (Antigonish-Guysborough): What was the date of that transaction?

Ms. Sunahara: The order in council was placed before the House in April of 1943, and it was at the end of May that the brochures were printed and distributed to sell off all Japanese Canadian property.

Senator Stewart (Antigonish-Guysborough) I ask you that question because much has been made of the parliamentary controls in this bill, and I do not want to attempt to diminish the importance of those controls, but my reading of the Second World War experience is that in the political environment of 1940, 1941 and 1942 parliamentary control would have meant virtually nothing, that the government of the day was being harassed constantly to do more to provide greater national security rather than protect the civil liberties of Canadians and others.

Ms. Sunahara: We are aware that public opinion, as reflected in the political sphere, is not the most thorough way to protect Canadian civil liberties. The National Association of Japanese Canadians has greater confidence in Parliament as a whole than it has in an executive, which may have certain political objectives it wishes to accomplish on its own.

Again, their own experience has been that a large number of members of the House of Commons and the Senate fought on behalf of Japanese Canadians. I believe Senator Croll, in fact, took part in much of the opposition to what was done to Japanese Canadians. Having a public forum in which the subject could at least be discussed is also vital. We all know

that the cabinet operates in secrecy and that what it does remains secret for 20 years, which is the other problem.

Senator Stewart (Antigonish-Guysborough): I am intrigued by the fact that you raised an objection to secret orders, but evidently you do not want to take time on that today. You are satisfied that the matter of secret orders has been reasonably well covered?

Ms. Sunahara: We still stand on our position that the power for secret orders is unnecessary since any provision for secret orders has already been made by Parliament in the CSIS Act.

Our concern today, and our primary concern with this bill, is the potential Charter override. Because there are secret orders, we feel that is potentially draconian.

Senator Stewart (Antigonish-Guysborough): Let us talk about what has been called Charter override. What the Charter says is that Parliament or the legislature of a province may expressly declare in an act of Parliament, or of the legislature as the case may be, that the act, or a provision thereof, shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of the Charter.

• (1510)

You are fearful that the words in clause 40(1) of Bill C-77 may constitute a delegation to the Governor in Council of Parliament's authority to say that a right in the Charter shall be set aside by an order in council or a regulation. Is that your argument?

Ms. Sunahara: The version of the bill I have—if you are referring to the clause which gives the Governor in Council the power to make orders and regulations in a war emergency—has been renumbered since I wrote my brief.

Our concern is that that clause is essentially the same as the section of the War Measures Act which has been held in law to confer plenary powers of legislation upon the cabinet.

Senator Frith: Can you give us that citation so it is on the record? Do you mind, Senator Stewart?

Senator Stewart (Antigonish-Guysborough): It would be helpful to have the citation.

Ms. Sunahara: The reference is the *Chemicals Reference*, a 1943 case of the Supreme Court of Canada. It is (1943), Supreme Court Reports 1, and the statement will be found at page 17 of Chief Justice Duff's judgment.

Senator Frith: And it never went further?

Ms. Sunahara: No, it did not.

Senator Frith: At that time there were appeals to the Privy Council.

Ms. Sunahara: There were appeals to the Privy Council, but—

Senator Frith: But it was not done.

Ms. Sunahara: —it was not proceeded with so this is the binding law in Canada.

Senator Stewart (Antigonish-Guysborough): When you say it is plenary power, you mean that Parliament is delegating 100 per cent of its own legal competence.

Ms. Sunahara: But keeping back—as they established in the *Re Gray* case during the First World War—the power to revoke the delegation; otherwise it becomes an abdication.

I might add that, while the courts found in the War Measures Act that power to revoke the delegation, it was not a practical power in that the only way it could be done was by bringing down the government.

Senator Stewart (Antigonish-Guysborough): But we are talking about the law. You are saying that you believe that the War Measures Act and this bill, if enacted, both delegate plenary power to the Governor in Council. By that you mean that, aside from Parliament's ability to repeal or amend the act in question itself, the Governor in Council could do anything that Parliament itself could do.

Ms. Sunahara: Yes.

Senator Stewart (Antigonish-Guysborough): Except for the specified exceptions which appeared in clause 4.

Ms. Sunahara: Yes. The full quotation from the *Chemicals Reference* is ". . . plenary powers of legislation as large as and of the same nature as those of Parliament itself."

Senator Stewart (Antigonish-Guysborough): I will use a specific example which may be helpful. Under your interpretation, could the Governor in Council have used the War Measures Act to introduce taxation? New taxes?

Ms. Sunahara: Yes, or they could have amended any existing tax act by order in council.

Senator Stewart (Antigonish-Guysborough): How do you get around the provision in the Charter that says that the Parliament may use the "notwithstanding" clause only by an express declaration?

• (1520)

Ms. Sunahara: That can be done through the wording of the order in council. If you wanted, for instance, to pass an order in council which said that the Royal Canadian Mounted Police could arrest anyone deemed to be a threat to the national security of Canada and could hold them without trial, the order in council would have to be phrased as saying, basically, "Notwithstanding the right to trial extended in paragraph 11.(*b*) of the Canadian Charter of Rights and Freedoms, the Minister of Justice may deem persons to be a threat", et cetera.

Senator Stewart (Antigonish-Guysborough): That was not quite my question. I am questioning your view that this is as plenary a delegation as that made by the War Measures Act. I am questioning it because of the provisions of section 33 of the Charter. That section gives Parliament the "notwithstanding" power, but it can exercise the "notwithstanding" power only by express declaration of Parliament.

Parliament has not made an express declaration in Bill C-77. Therefore, I would be inclined to argue that Parliament

has not delegated to the Governor in Council the "notwithstanding" power.

Ms. Sunahara: If Parliament has delegated plenary powers of legislation to the executive, then Parliament is basically saying to the executive, "Act in our place and stead to do whatever we can do." Therefore, when an order in council is equivalent to an act of Parliament, the executive, acting in Parliament's place and stead, is passing an act which would include the "notwithstanding" clause.

Senator Stewart (Antigonish-Guysborough): Yes, I understand your argument. My difficulty with it is this: The Charter has intervened since the time of the enactment of the War Measures Act. I question your assumption that the delegation in Bill C-77 is as extensive as was the delegation in the War Measures Act. It seems to me that Parliament can exercise the "notwithstanding" provision only by parliamentary express declaration.

Ms. Sunahara: The whole question in law is whether, if Parliament delegates powers to a body and that body, acting in Parliament's place, wishes to make an express declaration, it can do so. That point is not yet settled in law. Our first request to the minister was to refer this question to the Supreme Court of Canada. Let us get this matter settled.

I have an opinion—which is concurred in, I might add, by the Dean of the Law School of the University of Alberta—that, when granting plenary powers, they include all of Parliament's powers. These powers may have been defined in 1942 in terms of sections 91, 94 and 95 of the British North America Act, but today they are defined in sections 91, 92 and 94, and the intervening Constitution Acts, and the Charter of Rights and Freedoms. Therefore, when plenary powers are delegated now, the delegation is of powers greater than it was possible to delegate in 1939.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, I think I have exhausted this line of questioning. I am sure that other senators will want to put questions to this witness.

The Chairman: Thank you, Senator Stewart. Next on my list is Senator Marsden, followed by Senator Frith.

Senator Marsden: I should first like to say to the witness how much we appreciate her coming and how valuable it is to have before us someone so familiar with this piece of legislation. I wonder if she would be prepared to go beyond the clauses with which she is particularly concerned to tell us whether she has looked at this piece of legislation from one or two other points of view. If she has not, I quite understand her not wanting to respond.

Have you, Ms. Sunahara, looked at what is required under the various types of emergencies from the point of view of privacy and the privacy legislation we now have in this country?

Ms. Sunahara: I looked at the original bill from an historical point of view. I am an historian as well as a lawyer, having written a history of Japanese Canadians. I looked at it from the practical point of view; in other words, I considered what was done to Japanese Canadians at the time of the Second World War and asked whether we could do it again.

Historically, the only powers governments have ever needed in times of emergency—powers that have been properly used—were economic ones, the powers, basically, to ration, to get war production moving, to control goods and services, et cetera. The powers to infringe upon civil liberties have been more abused than used—and the Ukrainians will endorse my statement to that effect.

With regard to privacy, if we can allow search and seizure without reasonable grounds, we open the door completely to wire taps. Wire taps eliminate privacy—they introduce *Nineteen Eighty-Four*. In that regard, the other problem, the reverse side of the Privacy Act, is the new Freedom of Information Act, which freezes all documents referred to by cabinet in a time of emergency for 20 years, regardless of their significance. A judge cannot even look at them to determine whether there is a national security element to them. Quite frankly, when I went into the archives in the course of my research, I found that some of the "secret" information on Japanese Canadians was little better than laundry lists, which I would have thought should have been made public years ago.

Senator Marsden: You seem to be focusing heavily upon what happens in time of war, but could I ask you to look at some of the less dramatic events in this regard? The public welfare emergency is one that preoccupies me, and, if I am correct, search and seizure is not really an element of it. Property can be confiscated and disposed of; people can be evacuated and detained, and their travel can be regulated or prohibited, but that is not quite the same sweep as that to which you refer.

Ms. Sunahara: No, but my primary objection to the public welfare emergency is that it tramples upon provincial rights. Of course, being an Albertan, I am quite sensitive to provincial rights. Provincial agencies are in place to handle natural disasters. There has been no evidence in Canada that people have ever refused to give their services. True, no formal arrangement has been made to compensate them for their services, but, as a lawyer, I would reply that there is always a suit in *quantum meruit*.

It seems to me to be a lot of power to deal with something that is so extremely rare. When I was analyzing all of this I was trying to think of an example of public welfare emergency. Short of the hypothetical tidal wave hitting Vancouver—

Senator Marsden: Let me propose one which concerns me at the moment. As you are aware, this legislation covers diseases in human beings, animals and plants. One of the potential threats to civil liberties in this country is any law that may be made concerning people who have tested HIV positive, or people who have AIDS, where privacy is already a matter that has been raised in certain provincial jurisdictions. It is specifically with that example in mind that I ask you about privacy in relation to public welfare emergencies.

Ms. Sunahara: Both British Columbia and Alberta now have in place acts that require persons who have been diag-

nosed to be AIDS patients to be reported and that permit a medical officer to go to a court and obtain an order to confine them. This is another example of something that, technically, I suppose, is interprovincial, in that we have the freedom to move from province to province in Canada. I might add that any attempt to restrict that movement would be contrary to section 6 of the Charter, which cannot be withstood.

Quite frankly, to put a federal veneer on top of all this is, in my view, a redundancy. Public health is a provincial matter; the provinces all have public health departments. If we added another layer of bureaucracy to this, not only would it be more expensive but someone could conceivably be cleared by a provincial public health officer only to find himself in trouble with a federal public health officer. If anything is going to bring justice into disrepute, that will do it.

• (1530)

Senator Marsden: So your major argument on this section is that it is redundant and therefore unnecessary?

Ms. Sunahara: It is a replication of provincial powers. I would think it could be accomplished at much less cost by agreements and cooperation between the provinces.

In my original draft I suggested that the federal government could perhaps serve well to set up some sort of data bank of experts for flying in medical doctors who specialize in trauma, if a tidal wave does hit Vancouver. To create an entire bureaucracy over and above the provincial bureaucracy seems unnecessary.

Senator Frith: I want to ensure that you focused on section 53 of the Constitution Act when you quickly said that you felt the delegation to the executive could include the power to tax. That section reads:

> Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Whereas the other powers that Parliament has are powers of Parliament. In section 91, for example, it says that Parliament may make laws in certain classes of subjects.

I am not arguing with your conclusion. You answered it rather quickly, and I thought that Senator Stewart's question meant to focus your attention on the power to tax as a bit different from general legislative power.

Ms. Sunahara: If Senator Stewart was making a reference to section 53, I did not catch that. As I understand it, that provision in section 53 is to ensure that money bills originate in the elected House. Since the executive is composed almost entirely of persons from the elected House, the tabling of an order in council in that House, I would say off the top of my head, would satisfy section 53.

Parliament, under this Emergencies Act, does have the power to revoke orders in council. As another senator has pointed out, that is not necessarily a reliable way to protect civil liberties.

The National Association of Japanese Canadians would like to see this act make it possible for a government to exercise the powers it needs to, but difficult for it to misuse them. That is basically the fine line that we have been trying to draw in our submission.

Senator Frith: I think that is a very important line.

Mr. Chairman, I should like to have a few more items put on the record so that someone wanting to get Ms. Sunahara's point of view can get at least the essence of it all in one place.

Let us deal with section 33 and ensure we understand what section 33 can override. It is substantial, but it may be worthwhile getting that on the record. Your position is that because of section 33 and the *Chemicals Reference* case, Parliament can delegate to the executive the powers it has to override the Charter, as found in subsection 33(1).

Those powers relate to the following sections of the Charter. Section 2 deals with fundamental freedoms: freedom of conscience and religion, freedom of thought, freedom of peaceful assembly, and freedom of association. All of those, you say, on your interpretation, could be overridden by the executive; is that correct?

Ms. Sunahara: Yes.

Senator Frith: Then let us deal with sections 7 to 15 of the Charter. Section 7 deals with life and liberty. Section 8 deals with search and seizure. Section 9 deals with detention or imprisonment. Section 10 says that everyone has the right on arrest or detention to certain information. Section 11 deals with proceedings in criminal and penal matters. That section contains subsections from (*a*) through to (*i*), inclusive. Section 12 says that everyone has the right not to be subjected to any cruel and unusual treatment or punishment. Section 13 deals with witnesses' rights against self-incrimination. Section 14 deals with the right to have an interpreter. Section 15 deals with equality rights before and under the law, and equal protection of benefits of the law.

You say that each of those could be overridden by the cabinet or an order in council by reason of the delegation in this act—Bill C-77—of Parliament's power under section 33; is that right?

Ms. Sunahara: That is right. The other authority is the case of *Re Gray* in 1919, a case of the Supreme Court of Canada that held that Parliament did have the ability to delegate its law-making powers to a subordinate agency and had done so in the War Measures Act, notwithstanding the fact that the delegation was very broad.

Senator Frith: I understand that this opinion is supported by the Dean of the Law School in Alberta.

Ms. Sunahara: Yes, Timothy J. Christian.

Senator Frith: The opinion is that those cases stating that the delegation granted plenary parliamentary powers would apply today as well as they did then, although at that time there were no limits on legislative power, except the limits within the distribution of powers.

Just to dramatize the question a little more, prior to the Charter we were all taught in law school that Parliament was supreme. The classic example was that, so long as it was

within its powers under section 91, it could make a man a woman or a woman a man. You probably remember hearing that.

Ms. Sunahara: Or a person of both.

Senator Frith: You say that, notwithstanding those unfettered powers which were in existence at the time of both the *Gray* case and the *Chemicals Reference* case, there is nothing in the reasoning to change their application to present day, when Parliament's rights are circumscribed by the Charter.

Ms. Sunahara: When they met in the kitchen to draft section 33, they did not think about limiting the delegating powers. Since the power to delegate Charter powers has not been put in there, there is nothing to prevent Parliament from delegating that power, unless some argument in law can be made. In fact, it would be stimulating to attempt it. Until the Supreme Court of Canada makes a ruling, there is absolutely nothing to stop the delegation of section 33 powers. Then the other question is: Has it been sufficient here?

The bottom line is that it is an unsettled point of law. Until it is settled, we do not know the limits of the powers that are being given under this act.

Senator Frith: Or any limitations by reason of the existence of the Charter.

Ms. Sunahara: Precisely.

Senator Frith: In effect, you are saying that the argument could be made that the legislative context is different, but you yourself think that the dicta in the *Chemicals Reference* and *Gray* cases should apply now just as strongly as they did then in terms of the grant of plenary power.

Ms. Sunahara: Basically, yes. Let me put it this way: If I had to argue that the Charter must be construed differently from the rest of the Constitution, which is basically what you have to argue, and that it must be construed as no delegation, where the rest of the Constitution allows delegation, I would expect to lose that argument, although there are some jurisprudential arguments that can be made. The matter remains unsettled, and we are asking, in view of the fact that it is so unsettled, that this house amend the act to make the minister's intention clear, that there is no intention to give a Charter override in this act.

• (1540)

Senator Frith: That brings me to my last point. Your suggestion for an amendment, on page 2 of the memorandum that you distributed, means that an additional subclause should be added to clause 4 so that it would read:

> Nothing in this Act shall be construed or applied so as to confer on the Governor in Council the power to make orders or regulations . . .
>
> (c) invoking section 33 of the Canadian Charter of Rights and Freedoms and the powers thereunder to declare . . .

The minister, according to a letter that is to be attached to your document, said, "there is very little basis for concern." I take it he did not say that there is no basis for concern.

Ms. Sunahara: The position of the National Association of Japanese Canadians is that "very little basis" is too much.

Senator Frith: I hear you.

If he simply says, "There is very little basis for concern," I take it he is saying that he does not think that section 33 can be invoked by the Governor in Council. Did he say that?

Ms. Sunahara: The best way is to look at the last sentence, where he states:

> However, there is not the faintest suggestion in either that Parliament's power under section 33 of the Charter may be exercised by the Governor in Council.

In essence, what he is saying is that in their view section 33 cannot be exercised in this way. That is just a legal opinion.

Senator Frith: I understand. I wanted to get his legal position. You do not need to argue it for the moment. His position is that he does not think the Governor in Council can invoke section 33.

If that is so, all you do is make clear his opinion with paragraph (c).

Ms. Sunahara: Yes.

Senator Frith: His opinion is that it cannot be invoked, and your paragraph (c), in effect, agrees.

Ms. Sunahara: Yes.

Senator Frith: In effect, you are making clear that what he says is already the case.

Ms. Sunahara: Yes.

Senator Frith: Did you put your actual wording of paragraph (c) to him in that context and say, "Well, if the Governor in Council cannot invoke section 33, then why not say so?"

Ms. Sunahara: That is basically our position.

Senator Frith: Did you put this exact amendment to him?

Ms. Sunahara: We put the concept to him, thinking that he would prefer to draft it in his own words. I did put a suggestion to the legislative committee of a simpler version than this, but I drafted this one because I thought of a few other things—for example, that we do not want an order in council that amends the Criminal Code to allow search and seizure without reasonable grounds. My original draft, which I put to the minister, has been modified in this version put before this house.

Senator Frith: Are you prepared to say that on the basis of your experience up to now, if we amended this bill by adding your suggested paragraph (c) to clause 4, we would simply be making clear what the minister already says is so?

Ms. Sunahara: Yes.

Senator Frith: Thank you, Mr. Chairman.

The Chairman: Thank you, Senator Frith. I do not have any other hands up at the moment on the first round. Senator

Stewart, if you wish, you may begin to question on the second round.

Senator Stewart (Antigonish-Guysborough): Thank you very much, Mr. Chairman.

The bill makes frequent use of the expression "on reasonable grounds". For example, in clause 38.(1) it states:

> When the Governor in Council believes, on reasonable grounds, that a war emergency exists . . . the Governor in Council . . . may . . . so declare.

In the clause that we have been discussing chiefly, clause 40, subclause (1), it states:

> While a declaration of a war emergency is in effect, the Governor in Council may make such orders or regulations as the Governor in Council believes, on reasonable grounds, are necessary or advisable for dealing with the emergency.

What is the functional effect of the words "on reasonable grounds"? What difference does their inclusion in those two examples make?

Ms. Sunahara: It is my understanding that that amendment was done to permit the courts to review the grounds upon which the order is made. There is still some question, however, as to whether someone challenging must prove that the grounds were unreasonable or whether the onus is on the government to prove that they were reasonable. That distinction is important. For example, in the *Japanese-Canadians* case we did not get the documents to prove the unreasonableness of what was done to Japanese Canadians until 1976—30 years after the event.

The evidence that would be needed to prove reasonableness or unreasonableness can only come from the government. This is another reason why we wanted this amendment put in about the Charter override. You can imagine the disability of someone who has been subjected to an order removing his legal rights having to turn around and prove that the basis for subjecting him to that order was itself unreasonable. I can think of a number of examples off the top of my head.

Senator Stewart (Antigonish-Guysborough): You are concentrating on the question of the reasonableness or unreasonableness of the grounds; I wanted to focus on the verb "believes".

Ms. Sunahara: Yes; okay.

Senator Stewart (Antigonish-Guysborough): Does this mean that the court has to share the belief of the Governor in Council, or does it mean simply that the court will find that there are, or are not, grounds to believe, and that the Governor in Council can form its own belief, although the court might not share that belief?

Ms. Sunahara: The latter is the case. In law, "believes" is usually construed as meaning "believes in good faith." In order to rebut a belief you would have to establish that the Governor in Council was not acting in good faith, which we all know would be absolutely impossible to do.

[The Chairman.]

The courts also do not question, and traditionally have not questioned, the beliefs of the government. It is not the case that the court has to come to the same conclusion. In fact, there are several cases like the ones referred to. I go into this in my submission to the legislative committee. The courts simply do not question the grounds on which a government forms its opinion; they take the view that they have the best evidence and that they are reasonable men. Therefore, unless bad faith is shown, the Governor in Council must have believed it in order to have passed the order in council.

• (1550)

Senator Stewart (Antigonish-Guysborough): So what you are saying is that the inclusion of the words "on reasonable grounds" throughout the clauses of this bill really does not mean very much. You could get into court and the Governor in Council would send someone to appear there and say that the Governor in Council did, indeed, believe.

Ms. Sunahara: It would also enable you perhaps to buy time in order to publicize the situation by arguing that, in your particular case, the grounds were not reasonable. For instance, if the order were to outlaw a particular group, it would give you the opportunity to argue that you were not a member of the group and therefore, as it applied to you, it was not a reasonable order. That is the kind of argument to which I refer.

Senator Stewart (Antigonish-Guysborough): Thank you, Mr. Chairman.

The Chairman: As there are no other senators who wish to question you, I should like to thank you very much, Ms. Sunahara, for giving us the benefit of your study of and knowledge in this particular field. It has been very helpful to us.

Ms. Sunahara: Thank you, sir.

The Chairman: Honourable senators, during the course of the questioning there was reference to a fact sheet prepared by Emergency Predparedness Canada on the specific questions regarding the recommendations of the Japanese-Canadians. Is it your wish that that fact sheet be distributed to honourable senators at this time?

Senator Doody: Perhaps we could append it to the committee proceedings.

The Chairman: If that is your wish, honourable senators.

Senator Frith: Provided that we are appending the evidence of Ms. Sunahara, we can append the fact sheet as well.

Senator Doody: What Ms. Sunahara said will appear in *Hansard*.

Senator Frith: Yes, but she did not read through all of her written submission.

Senator Doody: I see.

Senator Frith: Therefore, I do not see why we should not append both submissions.

The Chairman: Honourable senators, is it agreed that we append both the letter, which was distributed to honourable senators from Ms. Sunahara, and the fact sheet from Emergency Preparedness Canada?

Hon. Senators: Agreed.

The Chairman: Honourable senators, is it your wish to proceed further or is it your wish to rise and report progress?

Senator Frith: Is there no one here to speak in support of the memorandum from the department?

The Chairman: No. It was delivered to the back door of the Senate and the request was made that it be distributed.

Senator Frith: Is it signed by someone?

The Chairman: No, but it is written on departmental letterhead.

Senator Frith: Which department are you referring to, Mr. Chairman?

The Chairman: It is on the letterhead of Emergency Preparedness Canada.

Senator Frith: We might want to have a look at it and call someone from the department. However, in the meantime, we will append it.

(For text of documents, see appendix, p. 3724.)

Senator Doody: In the meantime, perhaps the committee could rise and report progress.

Senator Frith: Mr. Chairman, I move that the committee adjourn, report progress, and ask for leave to sit again.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which was referred Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other acts in consequence thereof, reports progress and asks for leave to sit again.

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, when shall this committee have leave to sit again?

Hon. Royce Frith (Deputy Leader of the Opposition) moved that the Committee of the Whole be given authority to sit again at the next sitting of the Senate.

Motion agreed to.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifty-sixth report of the Standing Committee on Internal Economy, Budgets and Administration, presented in the Senate on June 16, 1988.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the fifty-sixth report of the Standing Committee on Internal Economy, Budgets and Administration be now adopted.

Motion agreed to and reported adopted.

The Senate adjourned until Tuesday, June 28, 1988, at 2 p.m.

APPENDIX

(*See p. 3723*)

EMERGENCIES BILL

COMMITTEE OF THE WHOLE — APPENDED DOCUMENTS

LETTER OF JUNE 2, 1988 WRITTEN BY M. ANN SUNAHARA

M. ANN SUNAHARA
Barrister & Solicitor
9809 91 Avenue,
Edmonton, Alta.,
T6E 2T5
(403) 433 - 8104

June 2, 1988,

Re: The Emergencies Act and Charter Override

I am a legal counsel to the National Association of Japanese Canadians with respect to their submission to the Legislative Committee on Bill C-77 and their ongoing concerns with the new Emergencies Act.

As you may be aware, part of our submission was concerned with the possibility that that Act might empower the Governor in Council to use Parliament's powers to override Charter rights. In response to our concerns the Minister responsible, Perrin Beatty, assured us that he had a legal opinion to the contrary on which he was relying.

The Minister has now provided us with a summary of that opinion. We are forced to conclude that it is seriously flawed and that there remains the distinct possibility that fundamental freedoms and legal rights could be overridden by Order in Council in time of emergency.

The National Association of Japanese Canadians finds this possibilty unacceptable and has requested the Minister to refer this matter to the Supreme Court of Canada for a definitive ruling.

The better solution, of course, is to amend Bill C-77 to expressly remove all possibility that a future executive could make Orders in Council that override Charter Rights. That objective can be accomplished by amending section 4 to read (amendment underlined):

> "4. Nothing in this Act shall be construed or applied so as to confer on the Governor in Council the power to make orders or regulations
>
> (a) altering the provisions of this Act; or,
>
> (b) providing for the detention, imprisonment or internment of Canadian citizens or permanent residents as defined in the **Immigration Act, 1976** on the basis of race, national or ethnic origin, colour, religion, sex or mental or physical disability; or,
>
> (c) invoking section 33 of the **Canadian Charter of Rights and Freedoms** and the powers thereunder to declare in any order or regulation that the order or regulation, or any other order or regulation or Act of Parliament, or any provision thereof, shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of the Charter."

The Minister responsible has stated that no Charter override is intended. It is in the interest of all Canadians that that intention be set out in the Act so that it binds future governments and the courts. Only with an amendment like that above will Canadians know for certain the extent of the legislative powers of the executive in time of national emergency.

Accordingly, the National Association of Japanese Canadians seeks your support for its requests that the

Senate amend Bill C-77 to expressly exclude any possibility of the exercise of Parliament's Charter override powers by the executive.

For your information please find enclosed copies of:

(a) pages 32 through 35 of our submission to the Legislative Committee on Bill C-77 which outline our concerns;

(b) the initial request of the President of the NAJC for a reference of this matter to the Supreme Court of Canada;

(c) a letter from the Minister Responsible for Emergency Preparedness outlining his reasons for believing that "there is very little basis for concern" about a Charter override in the Emergencies Act;

(d) the response of the President of the National Association of Japanese Canadians; and,

(e) a copy of my opinion referred to in the President's response.

The Minister's reasons appear to rest on the argument that Parliament cannot delegate its constitutional powers.

This argument is directly contrary to the rulings in cases dealing with Orders in Council made under the War Measures Act, cases which determined that Parliament could delegate legislative powers to the executive and that, in the War Measures Act, Parliament had in fact delegated "plenary powers of legislation as large as and of the same nature as those of Parliament": Chemicals Reference, [1943] S.C.R. 1 at 17.

The National Association of Japanese Canadians is of the view that any possibility of a Charter override is too great a threat to Canadian civil and human rights to be left unresolved. The NAJC is very concerned that the government is looking to a flawed legal opinion for its belief that the Emergencies Act has not given the Governor in Council the power to exercise Parliament's override powers under s.33 of the Charter. The possibility that this power could be used in secret Orders in Council is particularly worrying.

We ask for your support for an amendment to Bill C-77 like that set out above. If you have any questions or comments, please do not hesitate to contact me.

Sincerely yours,

M. Ann Sunahara.

cc. Art Miki, President, NAJC,

ENCLOSURE (A) TO LETTER DATED JUNE 2, 1988

Can the Cabinet Override Charter Rights?

This question arises because of the legal force and effect given to the the War Measures Act. In a case contesting the War Measures Act the courts held that Parliament not only could delegate its constitutional powers to the executive government, but also that Parliament, in fact, delegated unlimited powers to the Cabinet, including the power "supersede the existing law whether resting on statute or otherwise": Re Gray (1919) 57 S.C.R. 150, per Fitzpatrick, C.J. at 157 - 158 and per Duff J. (as he then was) at 168. The English courts reached a similar

conclusion with respect to the British Act on which the War Measures Act was based: R v. Halliday [1917] A.C. 260. Under the War Measures Act, the Governor in Council (effectively the Cabinet) "is vested with plenary powers of legislation as large as and of the same nature as those of Parliament": Reference Re Regulations Relating to Chemicals [1943] S.C.R. 1 per Rinfret J. at 17- 18. An order properly passed under that Act, therefore, "may have the effect of an Act of Parliament": Ibid, per Duff C.J. at 9.

Under the general emergency powers in the War Measures Act, therefore, Parliament could not only delegate its constitutional powers without limit, but the orders and regulations passed by the Cabinet are equivalent to Acts of Parliament. Section 33 of the Charter permits Parliament to declare in an Act of Parliament that the Act shall operate notwithstanding the fundamental freedoms set out in Section 2 and the legal and equality rights set out in Sections 7 through 15 of the Charter. If Parliament can delegate this power to the Cabinet, and if wording of section 38 of the Emergencies Act transfers unlimited powers to the Cabinet in a war emergency, then the Cabinet would have the power to override important Charter rights when making emergency orders.

The counterarguments are that Parliament cannot delegate its Charter powers or that its must do so expressly. Both these arguments were rejected in Re Gray, supra, in Canada, and in R v. Halliday, supra, in England. Indeed, in Re Gray the Chief Justice put the onus on Parliament to expressly limit the powers it confers on the executive if that is its intention: at 160.

There is nothing in the Charter that prevents Parliament from delegating its powers to the executive. Legal precedent suggests that it can delegate its constitutional powers and has done so in the past both in the War Measures Act and in the various Acts dealing with the government of the North West Territories: See S.C. 1871, c. 16. Indeed in the latter case, Parliament had to revise its original delegation of powers to expressly forbid the Lieutenant-Governor in Council to pass laws inconsistant with those of Parliament:See S.C. 1873, c. 34.

We doubt that the intention of the drafters of the Charter was that the federal Cabinet should have an uncensored right to pass laws that override Charter rights. As Justice Mayrand noted in Alliance des Professeurs de Montreal et al. v. Attorney-General of Quebec (1985) 21

D.L.R. (4th) 354 (Que. C.A.), the Charter requires that a law overriding its provisions should specify precisely what provisions will be overridden in order to encourage "an enlightened and serious examination of the proposed legislation.": at 356. When Parliament overrides the Charter, it does so in the glare of publicity and public debate. If the Cabinet is able to override the Charter under war emergency powers, it will do so in the privacy and secrecy of Cabinet. Indeed, given the provisions for secret orders in the proposed Emergencies Act, it need not even tell Parliament or the Canadian people about the order overriding the Charter.

The use of such orders would be limited only by the imagination of the Cabinet. Property could be secretly confiscated. Special prisons could be set up. People could be incarcerated or executed without trial. Government money could be diverted for the private use of Cabinet members.

Not only could all these abuses occur in secrecy but, even if public, the judiciary can do nothing to protect the Charter rights. Where the clauses overriding the Charter are properly drafted, the courts cannot even require the government to prove the law overriding the Charter right was

justifiable: Alliance de Professeurs de Montreal et al. v. Attorney-General of Quebec (1985) 21 D.L.R. (4th) 354 (Que. C.A.) per Mayrand J.A. at 356.

The wording of Section 38 of the Emergencies Act is very broad and may well give unlimited powers to the Cabinet. Because there is doubt about the delegation of the Charter override, we feel that this Committee should take to advice of the Chief Justice in Re Gray and expressly exclude the override power from Section 38.

ENCLOSURE (B) TO LETTER DATED JUNE 2, 1988

National Association of Japanese Canadians
National Executive Office
735 Ash Street,
Winnipeg, Man.,
R3N 0R5

April 20, 1988,

The Honourable Perrin Beatty,
Minister of National Defence,
House of Commons,
Ottawa, Ontario,
K1A 0A6

Dear Sir,

The National Association of Japanese Canadians applauds the constructive changes to Bill C-77, the Emergencies Act, which have recently been proposed by your department and by the Legislative Committee on Bill C-77.

Unfortunately, we are of the view that they are not sufficient.

In our submission of March 15, 1988, we raised serious concerns about the possibility that the proposed Act might unwittingly give the Governor-in-Council the power to override the Charter. We are aware that this is contrary to your intention.

We are also informed that you have an opinion from the Department of Justice stating that the proposed Act does not include a Charter override. Since we have not seen that opinion, we cannot judge either how complete it is or the strength of its ultimate conclusion. Our own legal counsel are of the view that the question remains moot, given the law arising from the use of the War Measures Act.

We are of the view that this question is too important to all Canadians to be left to the opinion of lawyers, who may not be correct. Accordingly, we urge you to immediately make a reference of this important issue to the Supreme Court of Canada for a definitive ruling. Further, we urge that, should the Supreme Court find that override powers have been given to the Governor-in-Council, that the appropriate amendment be made to ensure that only Parliament can override Charter rights in time of emergency.

Sincerely yours,
The National Association of
Japanese Canadians

per: Art Miki,
President.

ENCLOSURE (C) TO LETTER DATED JUNE 2, 1988

Minister Responsible for Emergency Preparedness

Ministre responsable pour la Protection civile

May 5, 1988

Mr. Art Miki
President
National Association of
Japanese Canadians
National Executive Office
735 Ash Street
Winnipeg, Manitoba
R3N OR5

Dear Mr. Miki:

Thank you very much for your letter of April 20, 1988 concerning the changes which have been made to Bill C-77, the Emergencies Act. I am gratified that you find the changes constructive and that they merit the applause of your organization.

I appreciate your wish to be reassured that Bill C-77 does not permit the Governor in Council to override the Charter of Rights and Freedoms. However, I am advised that there is very little basis for concern on this point, for the following reasons:

1. While it is true that the Supreme Court of Canada in the Chemicals Reference, [1943] S.C.R. 1 at 17, stated that the Governor in Council under the War Measures Act

> "...is vested with plenary powers of legislation as large and of the same nature as those of Parliament itself",

the Court also made clear that the Governor in Council only has that authority "when acting within

those limits", that is when acting "within the ambit of the Act by which his authority is measured". It follows therefore that the powers of the Governor in Council under the War Measures Act are not to be treated as coequal with those of Parliament under the Constitution Act 1867.

2. As broad as the executive authority of the Governor in Council under the War Measures Act may be, and even though Re Gray, 57 S.C.R. 150, held there that an order in council under the War Measures Act could amend an Act of Parliament, the Supreme Court of Canada is clear that this was only possible so long as the order in question is "in conformity with the conditions prescribed by ...the provisions of the War Measures Act" (Chemicals Reference at page 9). Therefore, while one Act of Parliament may be read as authorizing the Governor in Council to amend or repeal another Act of Parliament, it is very different to suggest that Parliament could authorize someone else to exercise its constitutional powers.

3. S. 33 is part of the Constitution Act 1867-1981 and hence cannot be treated like an ordinary Act of Parliament that is potentially subject to War Measures Act jurisprudence. For example, the reference to Parliament in s. 33 is the same as the reference to Parliament's lawmaking function under s. 91 of the Constitution Act, and yet it has never been suggested that the Governor in Council could be delegated the latter authority. In fact, the Chemicals Reference makes it clear that the Governor in Council was exercising authority on the basis of the War Measures Act rather than on Parliament's constitutional legislative authority under s. 91 of the Constitutional Act.

4. The argument in question ignores the fact that the Charter clearly distinguishes between "Parliament" and "the government of Canada" (see ss. 32(1)(a), 36(1)) and "Parliament" and "the executive government of Canada" (S. 44). The necessary implication of this is that the powers or authority of the one were never intended to be exchanged with or delegated to the other.

5. Governor in Council powers under the War Measures Act or its successor must be exercised in conformity therewith. However, there is not the faintest suggestion in either that Parliament's power under s. 33 of the Charter may be exercised by the Governor in Council.

The thoughtful study of Bill C-77 undertaken by your Association and the helpful suggestions which resulted were influential in making C-77 a much improved Bill. The positive contribution of the National Association of Japanese Canadians to this work has been very much appreciated by the Government, and I would like to convey my personal thanks to you and to your associates.

Sincerely,

(Signed)

Perrin Beatty

ENCLOSURE (D) TO LETTER DATED JUNE 2, 1988

National Association of Japanese Canadians
National Executive Office
735 Ash Street,
Winnipeg, Man.,
R3N 0R5

May 25, 1988,

The Honourable Perrin Beatty,
Minister of National Defence,
House of Commons,
Ottawa, Ontario,
K1A 0A6

Dear Sir,

Thank you for your reply of May 5, 1988 to our concerns about a possible Charter override in the Emergencies Act.

We note your comment that, in your view, "there is very little basis for concern" and your reasons for holding that view.

However, having read those reasons, our legal counsel is of the view that they are seriously flawed in law. Please find attached a copy of her reasons.

Further, even if our legal counsel is wrong, we are of the view that any possibility that the Act would permit the Governor-in-Council to override Charter rights by Order-in-Council is too great a risk to the civil and human rights of Canadians to be left undecided and unknown. The Canadian people have a right to know the extent of the powers of the executive in time of emergency, and to know the boundaries of those powers with certainty.

Again we reiterate that this question is too important to all Canadians to be left to the opinion of lawyers. Accordingly, we urge you to immediately make a reference of this important issue to the Supreme Court of Canada for a definitive ruling. Further, we urge that, should the Supreme Court find that override powers have been given to the Governor-in-Council, that the appropriate amendment be made to ensure that only Parliament can override Charter rights in time of emergency.

Sincerely yours,
The National Association of
Japanese Canadians

per: Art Miki,
President.

ENCLOSURE (E) TO LETTER DATED JUNE 2, 1988

M. ANN SUNAHARA
Barrister & Solicitor
9890 91 Avenue
Edmonton, Alberta,
T6E 2T5
(403) 433 - 8104

Mr. Art Miki,
President,
National Association of Japanese Canadians,
National Executive Office,
735 Ash Street,
Winnipeg, Manitoba,
R3N 0R5

Dear Mr. Miki,

Re: Charter Override and the Reasons of the Minister Responsible for Emergency Preparedness

1.0 The following legal opinion comments upon the reasons cited by the Minister Responsible for Emergency Preparedness in his letter of May 5, 1988, for his belief that "there is very little basis for concern" about a Charter override in the Emergencies Act.

1.1 While my analysis is hindered by the summary nature of the Minister's reasons, I am forced to conclude that the Minister's legal counsel appear to have made the following errors:

(a) they have confused the concepts of subdelegation and intradelegation;

(b) they have failed to appreciate the legal basis for the Emergencies Act itself; and,

(c) they have misconstrued the Chemicals Reference [1943] S.C.R. 1 and the other War Measures Act cases.

(a) DELEGATION OF POWERS:

2.0 The Minister's reasons are predicated upon the assertion in reasons 2, 4 and 5 that Parliament cannot delegate its powers under s. 91 of the Constitution Act, 1867 to the Governor in Council. This assertion is patently wrong in law. There is nothing express in the Constitution Acts, 1867-1981, which includes the Charter, about delegation of powers: Bora Laskin, Canadian Constitutional Law, 4th Ed., 1975, at 2. It has long been accepted that

Parliament, as our sovereign body, can enact any law it chooses within the sphere of its powers, and therefore can enact a law delegating legislative powers to any subordinate body whether that body is the Governor in Council, a Minister of the Crown, or any other official or body: Peter Hogg, Constitutional Law of Canada, 1977, at 214; 217-218.

2.1 This delegation of powers to a subordinate is called subdelegation. Because the Governor in Council (in fact, the Cabinet or executive) is inferior to Parliament, and holds its powers from Parliament (with the exception of those powers it holds in common law or by royal prerogative), Parliament can delegate to the Governor in Council/Cabinet/executive whichever of its powers it wishes and with whatever restrictions it wishes.

2.2 The only bodies Parliament cannot delegate to are the Provinces. This is because Parliament and the provincial Legislatures are separate but equal entities under the Constitution Act, 1867 and subordinacy is necessary for subdelegation. Intradelegation between Parliament and the Provinces, therefore, is not possible, but subdelegation from Parliament to the executive is.

2.3 Therefore, contrary to the statements of the Minister, Parliament can constitutionally confer legislative powers upon the executive : Ibid at 216 and Laskin, supra, at 2 and Hodge v. The Queen (1883) 9 A.C. 117.

2.4 Indeed, Parliament has done so on several occasions in the past. The most notable examples of such subdelegation are the Northwest Territories Act R.S.C. 1970, c. N-22, ss. 8, 13; the Yukon Act R.S.C. 1970, c. Y-2, ss. 9, 16, as am; and the War Measures Act R.S.C. 1970, c. W-2.

2.5 The validity of the first two mentioned delegations of legislative power has never been challenged.

The third has. In Re Gray (1919) 57 S.C.R. 150 the Supreme Court of Canada found that Parliament had the ability to delegate law-making powers, and that it had done so validly in the War Measures Act notwithstanding that that delegation was very broad. Since Parliament retained the power to restrict or withdraw the grant of power to its delegate, the Governor in Council, the delegation of legislative power to the executive in the War Measures Act was constitutional: See Ibid at 215 - 216 and Re. Gray at 171.

2.6 In the War Measures Act, as the Minister's reasons acknowledge, Parliament delegated to the Governor in Council "plenary powers of legislation as large as and of the same nature as those of Parliament itself.": Chemicals Reference [1943] S.C.R. 1 at 17. At that time Parliament's powers were defined in ss. 91, 94 and 95 of the then British North America Act, now the Constitution Act, 1867. Those powers included the powers in the preamble to s. 91 to make laws for the "Peace, Order, and good Government of Canada" (P.O.G.G.). On three occasions the courts have upheld legislative Orders-in-Council under the War Measures Act which, but for the delegation of P.O.G.G. powers, would otherwise have been unconstitutional as infringing on matters assigned exclusively to the Provinces in s. 92: See Fort Frances Pulp and Power Co. v. Manitoba Free Press [1923] A.C. 695 at 705; Wartime Leasehold Reference (1950) [1950] S.C.R. 124; and Co-operative Committee on Japanese Canadians v. Attorney-General of Canada et al [1947] A.C. 87.

2.7 This does not mean that the powers of the executive under the War Measures Act are equal to those of Parliament. They cannot be. Parliament must always retain the power to withdraw its grant of power from the executive. Otherwise the delegation of powers would amount to an abdication and hence would be illegal: See Re Gray, supra, at 171.

2.8 What it does mean is that under the War Measures Act the executive could make Orders-in-Council having the force and effect of statutes on behalf of and as if the executive were Parliament. Such Orders were valid in law so long as the executive was acting in good faith within the limits of the War Measures Act; that is,

> (a) where a state of war or apprehended insurrection existed;

(b) where, in the opinion of the Governor in Council, the Order was necessary; and,

(c) where the Order "could be enacted by Parliament, in the execution of its emergency powers, or otherwise; and, further more, that Parliament is not precluded by the British North America Act or by any other lawful enactment concerning legislative powers, from committing the subject matter of it to the Executive Government for legislative action.": Chemicals Reference, supra, per Duff C.J. at 10 - 11.

2.9 In summary, therefore, not only does Parliament have the power to delegate legislative power, but in the past it has delegated to the executive powers that were so broad that the executive was thereby authorized to make any order that Parliament, "in the execution of its emergency powers, or otherwise," was capable of making (Emphasis added).

(b) THE LEGAL BASIS OF THE EMERGENCIES ACT

3.0 The Emergencies Act has the same legal basis as the War Measures Act, which it replaces. Its stated purpose is to enable the government of Canada to respond quickly to emergencies without the cumbersome procedure of Parliament. As in the War Measures Act, Parliament in the Emergencies Act empowers the Governor in Council to make orders and regulations in its stead.

3.1 The question is: How broad are the powers given the executive in the Emergencies Act? On the plain reading of the Act they appear very broad indeed. In time of war emergency the Act expressly grants the executive the power to make:

"such orders or regulations as the Governor in Council believes on reasonable grounds are necessary or advisable for dealing with the emergency.": s. 38(1).

As with the War Measures Act, the only restrictions are that there be an emergency; that the Governor in Council believes on reasonable grounds that the orders are necessary; and

that Parliament be constitutionally capable of passing the order and is not barred from delegating the particular matter to the executive.

3.2 In the other three types of emergencies, the exercise of the powers is limited only by the subject matter of the orders and not by the breadth of powers exercised in the orders: See ss. 6(1), 17(1) and 28(1). In each case the Governor in Council is empowered to make:

> "such orders or regulations with respect to the following matters, as the Governor in Council, believes on reasonable grounds are necessary for dealing with the emergency": 6(1), 17(1), 28(1)

3.3 Even in the least encompassing emergency, the public welfare emergency, the enumerated subject matters on which the executive may make orders and regulations make it clear that the executive is exercising s. 91 powers, including the "Peace, Order and good Government" (P.O.G.G.) powers. The enumerated subject matters include matters exclusively within the s. 92 powers of the Provinces, such as "the requisition, use or disposition of property": s. 6(1)(c). Such intrusions into provincial powers by the executive can only be legal where the powers delegated by Parliament to the Governor in Council include its P.O.G.G. powers.

3.4 The listed subject matters also evidence an intention to delegate other s. 91 powers. The ability to prescribe a sentence not exceeding five years imprisonment (s. 6(1)(j)) requires s. 91(27) criminal law powers. The "regulation of the distribution and availability of essential goods, services and resources" (s.6(1)(e)) requires s. 91(2) trade and commerce powers.

3.5 Finally, some of the enumerated subject matters require infringement of Charter rights. Section 17(1)(a) contemplates prohibiting the right to public assembly in section 2 of the Charter. Section 28(1)(g) permits prohibiting Canadians from leaving Canada, contrary to section 6 of the Charter. Section 28(1)(d) permits search and seizure without a warrant contrary to section 8 of the Charter.

3.6 Finally, there are the comments of the Minister himself. The Minister stated on February 23, 1988, to the

Legislative Committee on Bill C-77 [the Emergencies Act] that "We will not be suspending the right to habeus corpus". The right to have the validity of detention determined by way of habeus corpus and to be released if the detention is not lawful, is a protected Charter right: s. 10(c). To imply that it can be suspended under the Emergencies Act is to imply that the executive under the Emergencies Act could infringe or override a Charter right.

3.7 The powers given in the Emergencies Act are very broad indeed, and, I submit, may be as broad as those of the War Measures Act. In short the Emergencies Act also appears to vest the executive "with plenary powers of legislation as large as and of the same nature as those of Parliament itself": Chemicals Reference, supra, at 17. The limitations placed on those powers are essentially the same:.

> (a) that a state of national emergency exist;
>
> (b) that, the Governor in Council believes on reasonable grounds that the Order is necessary; and,
>
> (c) that the Order "could be enacted by Parliament, in the execution of its emergency powers, or otherwise; and, further more, that Parliament is not precluded by the British North America Act or by any other lawful enactment concerning legislative powers, from committing the subject matter of it to the Executive Government for legislative action.": Chemicals Reference, supra, per Duff C.J. at 10.

In other than a war emergency the executive's powers are further limited by the requirement that the order deal with a subject matter enumerated under section 6(1), 17(1) or 28(1) respectively.

(c) MISCONSTRUCTION OF WAR MEASURES ACT CASES

4.0 The Minister's counsel have misconstrued the War Measures Act cases, and in particular the Chemicals Reference case and the distinctions within it between the exercise of powers under the War Measures Act by the executive and the exercise of s. 91 powers by Parliament.

Counsel have failed to appreciate that the War Measures Act empowers the executive to make laws in Parliament's place and based on Parliament's constitutional powers. The Chemicals Reference stands for the principle that where Parliament

> (i) has the constitutional ability to enact the order the executive has made; and,
>
> (ii) has not been precluded from committing the subject matter of that order to the executive,

then the order of the executive is legal and of the same force and effect as if it had been enacted by Parliament itself: per Duff C.J. at 10.

4.1 The application of these principles to the issue of whether Parliament can or has delegated its powers under s. 33 of the Charter to the executive in the Emergencies Act produces the following analysis:

> 1. Parliament has the constitutional power to pass orders that override sections 2, and 7 - 15 of the Charter: s. 33.
>
> 2. Parliament has the ability to delegate its constitutional powers to subordinate body: Re Gray, supra at 171.
>
> 3. Parliament in the past has delegated "plenary powers of legislation" to the Governor in Council in the War Measures Act: Chemicals Reference, supra at 17.
>
> 4. The powers delegated under the Emergencies Act are as broad as those under the War Measures Act: paragraphs 3.1 to 3.6.
>
> 5. Parliament is not precluded by any lawful enactment from committing a Charter override to the executive: Laskin, supra at 2.
>
> 6. Therefore, Parliament is able to and, under the Emergencies Act, has empowered the executive to make Orders in Council which override Charter rights.

CONCLUSION:

With respect, the Minister's reasons are without substance in law. Indeed, if he were correct and Parliament were not capable of delegating legislative power, then the Emergencies Act would be illegal in its entirety and without force and effect.

Since Parliament can delegate legislative powers to subordinate bodies, and since the executive is such a subordinate body, then where that delegation is broad enough to grant the executive plenary powers of legislation, and where Parliament is not precluded from delegating the matter to the executive, Parliament can delegate any of its constitutional powers, including its power to override Charter rights. Contrary to the statements of the Minister, there exists a very strong basis for concern that the Emergencies Act empowers the executive to make Orders that override Charter rights.

EMERGENCY PREPAREDNESS CANADA
FACT SHEET

BILL C-77 INCORPORATES NATIONAL ASSOCIATION OF JAPANESE CANADIANS RECOMMENDATIONS

Bill C-77, the Emergencies Act, was passed unanimously by the House of Commons on April 27, 1988. In its current form it incorporates almost all of the changes proposed by the National Association of Japanese Canadians (NAJC) when it appeared before the legislative committee. Key NAJC proposals and the corresponding provisions of Bill C-77 appear below:

NAJC Recommendation	Corresponding Provisions of Bill C-77
Parliament, at all times, must be able to revoke or modify any declaration of an emergency; and,	S.59 in its amended form incorporates this proposal.

NAJC Recommendation	Corresponding Provisions of Bill C-77
Parliament must at all times be able to amend or revoke any order or regulation made by the Cabinet.	S.61 provides for this.
All orders and regulations made under emergency powers must be directly related to alleviating the particular emergency.	All orders and regulations must be "necessary for dealing with the emergency."
Whether emergency orders and regulations are, in fact, directly related to the emergency must be reviewable at all times in a court of law, and the burden of proving the direct relationship shall rest with the government.	Government must have "reasonable grounds" for issuing all orders and regulations. This would be reviewable by courts, upon application by any individual or organization which had standing.
"National emergency" should be defined.	Defined in S.3
Any delegation of emergency powers by Parliament to the Cabinet must be predicated upon a threat to the continued existence of Canada itself.	National emergencies must "seriously threaten the ability of the government of Canada to preserve the sovereignty, security and territorial integrity of Canada". S.3(b)

NAJC Recommendation	Corresponding Provisions of Bill C-77
Orders and regulations for war must be limited to measures strictly necessary and directly related to the emergency in question; and,	Orders and regulations for war would be limited to measures which on "reasonable grounds" are "necessary or advisable" for dealing with the emergency.
The burden of proving that the orders are strictly necessary and directly related to the emergency must rest with the Government.	This would be the case. The onus would be on government to divulge its "reasonable grounds" to court.
No order or regulation should take effect before it is approved by Parliament.	S.61 and 62 include provisions requiring approval, but to delay immediate action when necessary in an emergency could cost lives.
The operation of all orders and regulations must be subject to the review of a Special Parliamentary Committee.	S.62 provides for just such review.
Debate upon a motion to amend or revoke an order or regulation shall be without closure.	Such debate must be "without interruption" and closure is not provided for.

NAJC Recommendation	Corresponding Provisions of Bill C-77
In any review of the use of emergency powers, or in any trial of an accused charged under an emergency order, the onus of proving that the emergency exists and the order is reasonable must rest with the Cabinet.	Government must have "reasonable grounds" for invocation and would be required to demonstrate this before the courts.
Any emergency legislation must expressly deny the power to override rights guaranteed in the Charter of Rights and Freedoms.	The Charter itself prohibits this.

June 21, 1988

THE SENATE

Tuesday, June 28, 1988

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

Prayers.

[*Translation*]

INFORMATION

ANNUAL REPORT OF COMMISSIONER TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the annual report of the Information Commissioner for the period ending March 31, 1988.

PRIVACY

ANNUAL REPORT OF COMMISSIONER TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the report of the Privacy Commissioner for the period ending March 31, 1988.

OFFICIAL LANGUAGES

ANNUAL REPORT OF COMMISSIONER TABLED

The Hon. the Speaker: Honourable senators, pursuant to the Privacy Act, I have the honour to table the report of the Commissioner of Official Languages for the period ending March 31, 1988.

[*English*]

INDIAN ACT

BILL TO AMEND—MESSAGE FROM COMMONS

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-115, to amend the Indian Act (designated lands).

[*Translation*]

CANADIAN ENVIRONMENTAL PROTECTION BILL

MESSAGE FROM COMMONS

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, without further amendments, to the amendments made by the Senate to Bill C-74, an Act respecting the protection of the environment and of human life and health.

[*English*]

APPROPRIATION BILL NO. 2, 1988-89

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-138, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the March 31, 1989.

Bill read first time.

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

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

[*Translation*]

CUSTOMS TARIFF

BILL TO AMEND (CODE 9956)—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-135, to amend the Customs Tariff (code 9956).

Bill read first time.

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

On motion of Senator Phillips, notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*English*]

CANADIAN EXPLORATION INCENTIVE PROGRAM BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-137, to provide for incentives to assist in financing exploration for mineral resources and hydrocarbons in Canada and to amend the Canadian Exploration and Development Incentive Program Act.

Bill read first time.

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

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

[*Translation*]

IMMIGRATION ACT, 1976

BILL TO AMEND—REVISED MESSAGE FROM COMMONS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

HOUSE OF COMMONS
CANADA

Monday, June 20, 1988

Ordered,—That a Message be sent to the Senate to acquaint Their Honours that this House agrees with amendments 6(b) and 12(c) made by the Senate to Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, but disagrees with amendments 1(a), 2, 5, 6(a), 7, 8, 9(a), (b) and (c), 10, and 12(a) and (b), because this House believes they contradict the principles of the Bill for the following reasons:

Amendment 1(a) would imply that the right to counsel of choice would no longer be subject to the requirement that the adjudicator assign counsel at the expense of the Minister where counsel of choice is not reasonably available; arguments over this erroneous implication could be used to delay the refugee determination process.

Amendment 2 would result in the recommencement of every hearing where the claimant indicates a fear of return only after substantive evidence has been heard, providing an opportunity for abuse by those who lack a credible basis for a claim or who would seek to delay or avoid removal by frustrating the "safe" third country mechanism.

Amendment 5 would introduce subjective elements which cannot be easily proven or rejected, thus opening a major loophole in the "safe" third country mechanism.

Amendment 6(a) arises out of Senate amendment 9(a), but is not consistent with the House amendment to Senate amendment 9(a), as set out below.

Amendment 7 would impair the effective elaboration of the "safe" third country list without improving the quality of the protection available to the claimant.

Amendment 8 would extend the scope and nature of Refugee Division hearings, significantly increasing the workload of the Division and thereby delaying decision-making for all claimants.

Amendments 9(b) and (c) arise out of Senate amendment 9(a), but are not consistent with House amendment to Senate amendment 9(a), as set out below.

Amendment 10 would change a fundamental principle that there be one high quality hearing on the merits of the claim by competent decision-makers, which hearing represents a proper balance between fairness and efficiency.

Amendment 12(a) would frustrate the selection of the best possible candidates, including present members, for each division of the new Board.

Amendment 12(b) is consequential on amendment 12(a), which is not acceptable, and is therefore inappropriate.

And, that this House agrees with the principles set out in amendments 1(b), 3, 4 and 11, but would propose the following amendments:

Amendment 1(b) be amended to read as follows:

"Strike out line 25, on page 7, and substitute the following:

ready and able to proceed within a reasonable period of time, unless the"

Amendment 3 be amended to read as follows:

"Strike out lines 26 to 31 on page 14, and substitute the following:

ant's habitual residence,

(i) that has been prescribed as a country that complies with Article 33 of the Convention either universally or with respect to persons of a specified class of persons of which the claimants is a member, and

(ii) whose laws or practices provide that all claimants or claimants of a particular class of persons of which the claimant is a member would be allowed to return to that country, if removed from Canada, or would have the right to have the merits of their claims determined in that country;"

Amendment 4 be amended to read as follows:

"Strike out lines 3 to 15, on page 15, and substitute the following:

19(1)(j),

(ii) a person

(A) described in paragraph 19(1)(c), or

(B) who has been convicted in Canada of an offence under any Act of Parliament for which a term of imprisonment of ten years or more may be imposed

who the Minister has certified constitutes a danger to the public in Canada, or

(iii) a person described in paragraph 1(e), (f), or (g), or 27(1)(c) or (2)(c) and the Minister is of the opinion that it would be contrary to the public interest to have the claim determined under this Act; or"

Amendment 9(a) be amended to read as follows:

"Add, immediately after line 13, on page 43, the following:

(1.1) Subsection (1) does not apply with respect to a decision of a visa officer on an application under section 9, 10, 25 or 79 or to any other matter arising thereunder with respect to an application to a visa officer".

Amendment 11 be amended to read as follows:

"Strike out lines 25 to 27, on page 55 and substitute the following:

tion, the country's policies and practices with respect to Convention refugee claims and the country's record with respect to human rights;".

and

That Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, be futher amended in Clause 14

(a) by striking out line 38 at page 18 and substituting the following therefor:

"landing of that person and any member of that person's family who is in Canada at the time of the application, unless the Convention refugee is"

(b) by striking out lines 24 to 26 at page 19 and substituting the following therefor:

"cant and any member of the applicant's family for whom landing is sought if the immigration officer is satisfied that neither the applicant nor any member of the applicant's family who is in Canada is a person"

(c) by adding, immediately after line 8 at page 20, the following:

"(8) for the purposes of this section and section 48.05,

(a) a person is a member of another person's family if the person is

(i) the spouse of that other person, or

(ii) the child of that other person, or

(b) "child", with respect to a person, means

(i) a person of whom that person is the natural parent, whether the person was born within or outside marriage, and who has not been legally adopted by any other person, and

(ii) a person who was legally adopted by that person,

but does not include any person who is or has been married;

(c) "spouse", with respect to a person, means a person of the opposite sex to that person who is married to that person by a marriage that is recognized by the law of the country in which it took place, other than a marriage occurring at a time when either person was already married."

(d) by striking out line 17 at page 20 and substituting the following therefor:

"mining eligibility to be grant-"

(e) by striking out line 23 at page 20 and substituting the following therefor:

"for a determination whether the person or any member of that person's family who is in Canada at the time of the application is,"

(f) by striking out line 28 at page 20 and substituting the following therefor:

"shall determine that the applicant and any member of the applicant's family for whom landing is sought is, but"

(g) by striking out line 32 at page 20 and substituting the following therefor:

"member of the applicant's family who is in Canada is a"

(h) by striking out lines 12 to 15 at page 21 and substituting the following therefor:

"(d) the person or any member of the person's family for whom landing is sought was determined not to be eligible to be granted landing for a reason other than the removal order; or

(e) the person and each member of the person's family for whom landing is sought were determined to be,"

(i) by striking out lines 25 to 29 at page 21 and substituting the following therefor:

"(a) grant landing to the person and each member of the person's family for whom landing is sought, where the person is a person described in paragraph (5)(d) or (e) and the adjudicator is satisfied that, but for the removal order, the person and each member are eligible to be grant-"

and

That the Bill be further amended in Clause 18 by striking out line 37 at page 28 and substituting the following therefor:

"hold office during good behaviour for a term not"

and

That the Bill be further amended in Clause 29 by adding immediately after line 46 at page 55 the following:

"(7) Section 115 of the said Act is further amended by adding thereto the following subsection:

"(5) The Minister may establish and appoint the members of a committee to advise the Minister with respect to the prescribing of countries under paragraph (1)(r)."

and

That the Bill be further amended by adding immediately after line 31 at page 56 the following:

"32. Section 123 of the said Act is repealed and the following substituted therefor:

"123. The Minister or the Deputy Minister, as the case may be, may authorize such persons employed in the public service of Canada as the Minister or the Deputy Minister deems proper to exercise and perform any of the powers, duties and functions that may or are required to be exercised or performed by the Minister or the Deputy Minister, as the case may be, under this Act or the regulations, other than the powers, duties and functions referred to in para-

graphs 19(1)(e) and (2)(a), sub-sections 39(2) and 40(1), subparagraph 48.01(1)(e)(iii) and subsections 82.1(2) and 83(1), and any such power, duty or function performed or exercised by any person so authorized shall be deemed to have been performed or exercised by the Minister of Deputy Minister, as the case may be."

ATTEST

ROBERT MARLEAU
The Clerk of the House of Commons

[*English*]

OFFICIAL LANGUAGES

FIFTH REPORT OF JOINT COMMITTEE REINSTATED

Hon. Joseph-Philippe Guay: Honourable senators, the week before last I withdrew from the order paper the fifth report of the Standing Joint Committee on Official Languages, with the unanimous consent of the house. I have been informed by members of the joint committee that I should not have withdrawn it. If permission is granted, I should like to reinstate the fifth report.

If you allow me, I will move, seconded by the Honourable Senator Robichaud:

That the Order of the Day for the consideration of the Fifth Report of the Standing Joint Committee on Official Languages (Calgary Olympic Winter Games), presented in the Senate on 17th December, 1987, which was discharged on 15th June, 1988, be reinstated on the Orders of the Day.

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

Hon. Senators: Agreed.

Motion agreed to.

THE RIGHT HONOURABLE MARGARET THATCHER PRIME MINISTER OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

ADDRESS TO MEMBERS OF THE SENATE AND OF THE HOUSE OF COMMONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I ask that the address of the Prime Minister of the United Kingdom, delivered before the members of the Senate and of the House of Commons on Wednesday, June 22, 1988, together with all introductory and related speeches, 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.

Senator Frith: We are not formally allowing it into the record as part of the platform of the Conservative Party in the next election; we are just allowing that it be made part of the record of the Senate.

Senator Marshall: Stand up when you say that!

(*For text of speeches, see Appendix "A", p. 3779.*)

PRIVATE BILL

MONTREAL TRUST COMPANY OF CANADA—REPORT OF COMMITTEE

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, June 28, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-THIRD REPORT

Your Committee, to which was referred Bill S-17, An Act to authorize the Montreal Trust Company of Canada to be continued as a corporation under the laws of the Province of Quebec, has, in obedience to the Order of Reference of Tuesday, June 14, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

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

Hon. Michel Cogger: With leave, now.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I would prefer to have third reading of this bill at the next sitting so that we can have an opportunity to look at the report. At the moment I know of no reason why it will not pass.

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

[*Translation*]

TOBACCO PRODUCTS CONTROL BILL

REPORT OF COMMITTEE

Hon. Arthur Tremblay, Chairman of the Senate Standing Committee on Social Affairs, Science and Technology presented the following report:

Tuesday, June 28, 1988

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

SIXTEENTH REPORT

Your Committee, to which was referred Bill C-51, An Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products, has, in obedience to the Order of Reference of Tuesday, June 14, 1988, examined the said Bill and has heard from officials of thirteen organizations who had asked to appear.

As a result of its study the Committee now proposes that the Bill C-51 be adopted without amendment.

Having found, however, that there were certain incorrect cross-references in the Bill as passed by the House of Commons, the Committee has asked that these editorial errors be corrected in the parchment of the Bill by officials of both Houses prior to its third reading in the Senate.

The Committee has also requested that arrangements be made with the House of Commons for the printing and distribution of a reprint of the Bill reflecting these corrections.

Respectfully submitted,

ARTHUR TREMBLAY
Chairman

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

Senator Tremblay: With leave, honourable senators, later today, if the editorial errors mentioned in the report which has just been read have been corrected; otherwise, tomorrow, if certain delays should occur in this regard.

• (1410)

[*English*]

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

Hon. Senators: Agreed.

The Hon. the Speaker: With leave of the Senate and notwithstanding rule 45(1)(*b*), it is moved by the Honourable Senator Tremblay, seconded by the Honourable Senator Spivak, that this bill be read the third time later this day.

Honourable senators, is it your pleasure to adopt the motion?

Senator Tremblay: Later this day, if the corrections mentioned in the report have been made this afternoon; otherwise third reading might take place tomorrow.

Hon. Royce Frith (Deputy Leader of the Opposition): Yes. I think I understand Senator Tremblay's intention. I suppose that, strictly speaking, we are not agreeing to have it adjourned until later this day unless something happens, but we are adjourning it to later this day to wait and see if something else is going to happen. It is a little different.

Senator Doody: You got that one straight!

Senator Frith: That hair was pretty well split!

[Senator Tremblay.]

The Hon. the Speaker: Honourable senators, is it agreed?

Senator Frith: Anyway, we agree.

On motion of Senator Tremblay, bill placed on the Orders of the Day for third reading later this day.

STANDING RULES AND ORDERS

On Reports of Committees:

Hon. Gildas L. Molgat: Honourable senators, I have two reports from the Standing Committee on Standing Rules and Orders. I do not have the printed texts here. I ask that leave be given to revert to this item later this day.

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

Hon. Senators: Agreed.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

REVISED FIFTY-FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Royce Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, June 28, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTY-FIFTH REPORT (revised)

Your Committee has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Social Affairs, Science and Technology for the proposed expenditures of the said Committee with respect to its examination of the problems relating to childhood poverty, as authorized by the Senate on May 18, 1988, and its examination of all other matters referred to the Committee. The said supplementary budget is as follows:

Transportation and Communications	$10,500
All Other Expenditures	1,300
	$11,800

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

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

FIFTY-SEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Royce Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, June 28, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTY-SEVENTH REPORT

Your Committee has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Legal and Constitutional Affairs 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, as authorized by the Senate on November 25, 1986. The said supplementary budget is as follows:

Professional and Other Services	$23,500
Transportation and Communications	8,940
All Other Expenditures	1,500
	$33,940

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

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

FIFTY-EIGHTH REPORT OF COMMITTEE PRESENTED

Hon. Royce Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, June 28, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTY-EIGHTH REPORT

Your Committee has examined and approved the revised supplementary budget presented to it by the Chairman of the Standing Senate Committee on Energy and Natural Resources 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, as authorized by the Senate on October 28, 1986. The said revised supplementary budget is as follows:

Professional and Other Services	$15,000
Transportation and Communications	1,000
All Other Expenditures	1,500
	$17,500

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

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

FIFTY-NINTH REPORT OF COMMITTEE PRESENTED

Hon. Royce Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, June 28, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIFTY-NINTH REPORT

Your Committee has examined and approved the revised supplementary budget presented to it by the Chairman of the Standing Senate Committee on Energy and Natural Resources for the proposed expenditures of the said Committee with respect to its examination of the production and use of natural gas in Canada, as authorized by the Senate on April 1st, 1987, June 23, 1987 and March 22, 1988. The said revised supplementary budget is as follows:

Professional and Other Services	$32,000
Transportation and Communications	40,500
All Other Expenditures	1,500
	$74,000

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

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

Senator Frith: In case anyone wonders what happened to the fifty-sixth report, it has already been presented.

QUESTION PERIOD

ABORTION

BOROWSKI APPEAL TO SUPREME COURT OF CANADA—LACK OF GROUNDS—INTERVENTION BY REAL WOMEN—REASON FOR GOVERNMENT INACTION

Hon. Lorna Marsden: Honourable senators, I have two questions for the Leader of the Government in the Senate. I gave him notice of them earlier today. Before I ask them, I should like to say to the Leader of the Government, to his staff and, indeed, to anyone else who prepared it, that the answer given by Senator Doody on page 3713 of *Debates of the Senate* of June 21 to my question concerning employment equity is a first-rate answer. It is the best one I have ever seen here and I am very grateful to you.

Some Hon. Senators: Hear, hear!

Senator Marsden: I should like to ask the Leader of the Government in the Senate why the Minister of Justice and Attorney General of Canada is not instructing counsel to move to strike from the list the appeal of Joe Borowski to the Supreme Court of Canada.

Mr. Borowski was originally given standing specifically to challenge section 251 of the Criminal Code. Now that the Supreme Court, in its *Morgentaler* decision, has declared section 251 null and void, there is no legislation for Mr. Borowski to be challenging, and his case is only about abstract questions of law, which, in our legal system, can be brought to the Supreme Court only by the federal government on a reference case under the Supreme Court Act.

I should like to ask the second question at the same time. Why did the Minister of Justice and Attorney General of Canada not instruct his counsel to oppose the application of REAL Women to intervene in Mr. Borowski's appeal when that application for intervention was over six months too late, under the Supreme Court rules?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am pleased, of course, that our colleague, Senator Marsden, found the reply to her question regarding employment equity so satisfactory. I shall pass on her comments to those responsible, and possibly to other departments as well, so that this type of reply may be considered exemplary.

I thank Senator Marsden also for having given notice of her two questions of today. The reply that has been furnished to me by my colleague, the Minister of Justice, is as follows.

First, the question of who is allowed to intervene before the Supreme Court of Canada is a matter for that court to decide. In the Borowski appeal the Minister of Justice did not approve or consent to the intervention of REAL Women, or LEAF—the Women's Legal, Education and Action Fund.

As the honourable senator knows, litigation and appeal follow a process governed by the court. Mr. Borowski applied for an early hearing in June. As part of that process, the Supreme Court of Canada ordered that written arguments by the parties be filed with the court by a specified time. The Attorney General will be filing his position according to the court order, and his position will be known and clear at that time. The courts are open to anyone to bring a claim or an issue before them.

Senator Marsden: I thank the Leader of the Government in the Senate for his reply.

EMPLOYMENT EQUITY

GOVERNMENT CONSULTANTS INTERNATIONAL—COMPLIANCE WITH FEDERAL GOVERNMENT CONTRACTING PROGRAM

Hon. Lorna Marsden: Honourable senators, I received in my mail last week—and I am sure many other honourable senators did as well—a handsome brochure from Government Consultants International, with a letter from David MacDonald announcing he had become a consultant.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): From whom?

Senator Marsden: David MacDonald. I have no idea which David MacDonald. Let me ask my question and that will become irrelevant.

Government Consultants International will be known to everyone in this house. In the brochure they list their ten directors, all of whom are men, and their consultants, all of whom are men.

The Federal Government Contracting Program requires that any company doing $200,000 worth of business or more a year with the federal government must engage in employment equity. I, of course, have no idea how much business GCI does with the federal government, but from newspaper accounts alone one would expect that figure to be over $200,000 a year.

I should like to ask the Leader of the Government in the Senate to check whether that company has filed, under the Federal Government Contracting Program, an employment equity plan.

Senator Murray: Honourable senators, subject to correction, I doubt very much that the organization referred to by the honourable senator does business with the federal government in the sense she means. If I understand correctly, this is a private sector consulting firm. It may do considerably more than $200,000 worth of business in the private sector, but I am not aware that that company does any business with the federal government.

Senator Marsden: Nonetheless, would the minister be kind enough to see whether this firm has contracts with the federal government worth that amount or more, because the Federal Government Contracting Program, of course, operates with private sector companies?

Senator Murray: As I said, I spoke subject to correction as to the relationship of this company with the government. I shall certainly seek confirmation of the impression I have, which I conveyed to the Senate a few minutes ago.

AGRICULTURE

WESTERN CANADA—DROUGHT CONDITIONS—GOVERNMENT ASSISTANCE

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government a question on the same subject I have been asking questions on for several weeks, and that is the continuing drought in western Canada. I do not want to be repetitive, but the questions on the minds of thousands of farmers and ranchers out there are the same this week as last week, except they are more intense now because there has been no appreciable rainfall in any part of western Canada that I know of. I am not saying that there has not been any rainfall; there may have been some showers, but there certainly has not been, to my knowledge, any appreciable precipitation to relieve the drought conditions anywhere. The situation has now deteriorated to such an extent that the seriousness of it is beyond any partisan consideration. Can the Leader of the Government give us any idea, today, when the government will reach a decision on what it is going to do to be helpful in this disastrous situation?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend can expect an early announcement on the part of the Minister of Agriculture on this matter.

Senator Olson: The same problem always arises, honourable senators, when we talk about "early". Does that mean later this week or next week?

Senator Bonnell: This afternoon!

Senator Olson: Senator Bonnell suggests this afternoon. Is that what it means, or is it going to be in the next day or two?

Senator Murray: Honourable senators, it will be done soon, but I am not in a position to state exactly at what hour of what day the minister will be making an announcement on this matter, but it will not be delayed.

OFFICIAL LANGUAGES

ALBERTA LEGISLATION—RIGHTS OF FRANCOPHONE MINORITY—GOVERNMENT RESPONSE—APPLICATION OF BENEFITS TO MANITOBA, SASKATCHEWAN AND PRINCE EDWARD ISLAND

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government, in his position as minister responsible for federal-provincial relations, whether or not the federal government has received a request from any one or more of the francophone associations in Alberta for the assistance of the federal government respecting a new Alberta language law that was brought into the legislature a few days ago.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, such a request would normally be directed to my colleague, the Secretary of State. I will ask him whether, since the proposed legislation was tabled in the Alberta legislature, any formal request has come from the francophone association of that province.

Mr. Lucien Bouchard and I met with representatives of the Alberta francophones some weeks ago to discuss their concerns about the legislation that was then pending. Since our meeting we have heard from them. I do believe that Mr. Bouchard has been in touch with them since the bill was tabled in Edmonton, or that he very soon will be in touch with them again.

Senator Olson: Honourable senators, in view of the fact that this consideration and discussion about the language law has taken place, can the minister indicate what action the federal government is contemplating to achieve the objective the francophone association has indicated it is seeking?

Senator Murray: Honourable senators, I have seen, as perhaps my friend has, the representations of the francophone organization to the Alberta government. As I have said publicly, they are extremely modest, moderate and reasonable, and we would have hoped that the Alberta government would give a more positive response to those representations.

There is not a great deal of scope for unilateral action open to the Government of Canada on this matter. I simply draw the attention of the honourable senator to the fact that in the case of Saskatchewan we were able to negotiate—first with the Government of Saskatchewan—an agreement that provided for very considerable improvements in the status of and in the services available to French Canadians living in that province. We went on to negotiate an agreement with the French Canadian Association as well as the Fransaskois to assist them with their activities.

In the case of Alberta, we believe the best avenue to pursue is that of negotiation leading to an agreement with that government to improve the services available to French Canadians in Alberta in terms of legislation, education and other government services.

Senator Olson: Honourable senators, the reply of the Leader of the Government indicates that the federal government was able to negotiate successfully with the Government of Saskatchewan prior to its legislature's action. By implication, that reply also indicates that the federal government has been attempting to negotiate with the Government of Alberta but has not been similarly successful. Is that what has happened to attempted negotiations with Alberta?

Senator Murray: Honourable senators, as long ago as last February, in the aftermath of the Mercure decision, my colleague the Minister of Justice indicated in the House of Commons that the Government of Canada was ready, willing and able to give assistance to the government of Alberta to enable that province to provide an adequate level of service to the French-speaking population of that province. That was reiterated, I believe, in May. Again in June the Prime Minister wrote to Premier Getty on the matter.

The Government of Alberta has indicated some interest in negotiating with us our participation in terms of the assistance we may give to Alberta to enable that government to implement fully section 23 of the Canadian Charter of Rights and

Freedoms respecting minority language education rights and to assist that government to comply fully with the provisions of the Criminal Code with regard to criminal trials being conducted in Alberta in the French language. For our part, we have indicated to Alberta that we would be prepared to discuss these matters, but we also wish to enter into fairly intensive discussions concerning legislation, civil proceedings in court, education and other services that could be made available to the French-speaking population of the province.

Honourable senators, it is not a matter of negotiations having failed. We want to intensify the negotiations, and we hope that they will have the same productive result as that which took place in Saskatchewan.

Senator Olson: I understand that the Attorney General of Alberta, Mr. Horsman, has publicly stated that he will seek all of the assistance that has been offered by the federal government for education, and the various other services the Leader of the Government has just mentioned. What I am curious about, however, is that the provincial government seems to be proceeding with its legislation in any event. That falls somewhat short of the mark in terms of defining the official status of the French language in Alberta. In a number of areas the French language does not seem to have the status it enjoys in most other parts of Canada.

Is the Leader of the Government just expressing a hope in this regard or does he have a commitment from the Government of Alberta that it will delay—if that is the right word—the final passage of this legislation until the negotiations have been completed?

Senator Murray: Honourable senators, I have no such commitment from the Government of Alberta, and I have the same understanding as that of my friend, that it intends to proceed with the legislation. Having said that, that would still not stop us from negotiating a proper agreement with the province in the areas of legislation, education, civil and criminal proceedings in the courts and the extension of other services to the French Canadian population of Alberta.

● (1430)

Hon. Joyce Fairbairn: Honourable senators, I should like to ask a question supplementary to Senator Olson's question. Has the Leader of the Government in the Senate, or any of his colleagues, been in communication with anyone in the Alberta government since this legislation was brought forward, expressing the disappointment of the federal government, inasmuch as the limited response from the Government of Alberta on the language issue does not seem to reflect what the government would have hoped was the spirit of Meech Lake?

Senator Murray: Honourable senators, I took several occasions that presented themselves to me prior to the tabling of the legislation to express the concern of the federal government about the plans of the Alberta government. I spoke to my interlocutor of that government, the Attorney General and Minister of Intergovernmental Affairs, Mr. Horsman, and others of my colleagues did likewise.

[Senator Murray.]

As I indicated, Mr. Lucien Bouchard and I met with the Franco-Albertans several weeks ago. On the day the bill was tabled I did have a telephone conversation with Mr. Horsman, when I again indicated the concern of the federal government and our disappointment that, in light of the very moderate, modest and reasonable representations that had been made by the Franco-Albertans, the Government of Alberta had not chosen to respond in a more positive manner.

Hon. Gildas L. Molgat: Honourable senators, my question is also a supplementary on this same issue.

The minister indicated that negotiations are currently under way with the Government of Alberta. In the event that these negotiations give greater benefits to Alberta than presently accrue to the province of Manitoba, which also has agreements with the federal government, may we have the assurance of the minister that those benefits will be available to Manitoba and Saskatchewan, if they have concluded their negotiations?

Senator Murray: Honourable senators, the situations in the province of Manitoba on the one hand and the other two provinces on the other hand are somewhat different in that, as the honourable senator knows, Manitoba is bound by the provisions of the Constitution in these matters. The Government of Canada has entered into a sound and practical arrangement with the Government of Manitoba. I am not familiar enough with it to know in what way it may differ from the agreement that was made with Saskatchewan or any future agreement that may be made with Alberta.

It is always open to our friends in the provinces to draw to our attention any discrepancies that they think are unfair in any way. Of course, we always take these matters into consideration.

Hon. Joseph-Philippe Guay: Honourable senators, the Leader of the Government in the Senate has told us of his concern and disappointment. When speaking with Mr. Horsman, did he indicate that there was a possibility that the Alberta government might reconsider what it had done in order that it not disappoint the government any further or create greater concern, in view of the fact that it supports the Official Languages Act? I am sure that the pressure being placed on Alberta by the federal government requires that the Province of Alberta give this further consideration.

Senator Murray: Honourable senators, my last conversation with Mr. Horsman was, as I indicated earlier, on the day that the bill was tabled in the legislature. Because I did not think it would be productive to do so, I did not suggest to him that he withdraw his bill. I did suggest that the Government of Canada would want to intensify its negotiations with his government not only in the areas of education and criminal trials, which are of particular interest to his government, but also in the areas of legislation and civil proceedings and other services that might be made available to the French-Canadian people of Alberta.

Hon. M. Lorne Bonnell: Honourable senators, I should like to suggest to the Leader of the Government in the Senate that, since we are talking about bilingualism, the Province of Prince

Edward Island, through its premier, did agree, without much ado, to have bilingualism in the province, and the premier was pleased to cooperate with the federal government. That is what a Liberal government will do. It will go forward with liberal views. We hope that that will also happen in Alberta. I hope that any help the federal government gives to Alberta or to any of the other provinces will also apply to Prince Edward Island.

PRINCE EDWARD ISLAND

EQUAL APPLICATION OF BENEFITS UNDER PROVISIONS OF B.N.A. ACT

Hon. M. Lorne Bonnell: Honourable senators, I want to bring to the attention of the Leader of the Government in the Senate the section of the British North America Act which states:

> That the Dominion Government 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;
>
> Efficent 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;—

It goes on to say, honourable senators:

> And such other charges as may be incident to, and connected with the services with, the services which by the "British North America Act, 1867," appertain to the General Government, and as are or may be allowed to other Provinces;
>
> That the railways under contract and in course of construction for the Government of the Island, shall be the property of Canada;—

My question for the Leader of the Government in the Senate is: Did you include in negotiations with the Premier of Prince Edward Island an agreement with the Government of Canada whereby Prince Edward Island would be treated the same as the other provinces, as it must be under the British North America Act? The British North America Act states that you will make the same payments to Prince Edward Island pertaining to other things as are or may be allowed to other provinces. In other words, if you allowed $800 million to Newfoundland—it is another province—for the abandoning of the railroad, then, automatically, you would have to make a substantial grant to Prince Edward Island for the abandonment of the railroad there as well.

During the negotiations there last week, can you advise the Senate how many hundreds of millions of dollars you promised Prince Edward Island?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that is a novel intepretation of the 1867 act, and I shall have to take counsel on it.

ATLANTIC CANADA OPPORTUNITIES AGENCY

PRINCE EDWARD ISLAND—APPLICATION FOR GRANT FOR MANUFACTURE OF POTATO BAGS

Hon. M. Lorne Bonnell: Honourable senators, I will ask the Leader of the Government a different question. Since he does not seem to understand about the British North America Act, certainly he understands the Atlantic Canada Opportunities Agency—that is one thing he understands well. He has told us many times that it is run in the area; the approval will be made in the area by the people down there; and they have a board of directors who make these decisions.

As I understand it, the board of directors met on June 8 in Halifax and considered many applications for grants. One of the applications before the board, which was approved by the board of directors in Halifax on June 8, was from the Island Packing Company Limited for making paper bags for potatoes in Prince Edward Island. All the potato producers in Prince Edward Island approved the plan, and all the other applications that went before that board of directors on June 8 were signed and approved by Mr. McPhail, except the one from Island Packers for Prince Edward Island paper potato bags.

● (1440)

Last week I contacted Mr. McPhail, who told me that within a day or two they would make some kind of decision. However, honourable senators, as yet there has been no decision. I understand that this matter is now on the minister's desk. Apparently, a decision of the minister is necessary, since this is a political matter.

A letter dated June 15 from the law firm of Scales, Jenkins and McQuaid was then sent to the Atlantic Canada Opportunities Agency, a copy of which went to Senator Lowell Murray, laying out the details of this matter. Honourable senators, we have still received no decision.

Can the Honourable Leader of the Government in the Senate tell us what is holding up this application, since in another month potatoes will be on the market and we must have the bags in which to export these potatoes to the world market? My question to the minister is: When can we expect a decision from this agency regarding these potato bags?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the board in question that examines applications

from commercial firms is the board of the Atlantic Enterprise Program. Unless the eligible costs were $5 million or more, such an application would not, in the normal course of events, come to my desk at all. However, if there is a disagreement on the matter as between the recommendation of the board and the recommendation of my officials, then it might come to me for adjudication. If it does, I will examine the facts and make a decision.

In any case, I will see what information I can obtain within the next day or so that I can properly convey to the house and to the public on this matter at this time.

Senator Bonnell: Is the minister telling me that he did not receive a copy of the letter dated June 15 from Mr. John A. McQuaid of the firm of Scales, Jenkins & McQuaid?

Senator Murray: Honourable senators, I must confess that I have not seen the letter to which my friend refers. However, that does not mean that I have not heard something about the case that he has just raised, and I expect to hear more about it in the next little while.

STANDING RULES AND ORDERS

TWELFTH REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Reports of Committees:

Hon. Gildas L. Molgat, Chairman of the Standing Committee on Standing Rules and Orders, presented the following report:

Tuesday, June 28, 1988

The Standing Committee on Standing Rules and Orders has the honour to present its

TWELFTH REPORT

Your Committee recommends that committee meetings held outside Ottawa on sitting days and committee meetings held during adjournments of the Senate be noted in the *Minutes of the Proceedings of the Senate.*

Respectfully submitted,

GILDAS MOLGAT
Chairman

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

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

THIRTEENTH REPORT OF COMMITTEE PRESENTED

Hon. Gildas L. Molgat, Chairman of the Standing Committee on Standing Rules and Orders, presented the following report:

Tuesday, June 28, 1988

The Standing Committee on Standing Rules and Orders has the honour to present its

THIRTEENTH REPORT

Your Committee recommends that where a committee reports a bill without amendment or where a committee recommends amendments to a bill, the report not contain any background information, observations or recommendations.

Any background information, observations or recommendations respecting a bill that is reported by a committee may be tabled separately by the committee Chairman and printed in the final issue of the committee proceedings on the bill.

Respectfully submitted,

GILDAS MOLGAT
Chairman

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

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

APPROPRIATION BILL NO. 2, 1988-89

SECOND READING

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-138, for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending March 31, 1989.

He said: Honourable senators, the bill before you today, Appropriation Bill No. 2, 1988-89, provides for the release of the balance of the Main Estimates for 1988-89 amounting to some $29.5 billion, and the whole of Supplementary Estimates (A), 1988-89 amounting to about $113.9 million. The total spending authority requested by this bill is just under $30 billion.

The Main Estimates were tabled in the Senate on March 1, 1988, and were referred immediately to the Standing Senate Committee on National Finance. These Estimates were discussed in committee with the President of the Treasury Board and his officials on March 23, 1988. The committee presented a report to the Senate on these Estimates on June 7, 1988.

The Supplementary Estimates (A) were tabled in the Senate on May 19, 1988, and were immediately referred to the Standing Senate Committee on National Finance. Officials of the Department of Agriculture and of the Treasury Board Secretariat discussed the Estimates with the committee on May 26, 1988. As honourable senators may be aware, the total payments made in the first year were $114 million lower than anticipated. Accordingly, that amount is required this fiscal year to maintain the program funding at the total level previ-

ously announced. The committee presented a report to the Senate on these Estimates on June 1, 1988.

Honourable senators, I should also like to table the total Estimates tabled to date for 1988-89 and the supply to date for 1988-89 and ask that they be printed as part of today's *Debates of the Senate*.

Honourable senators, I wish to assure this house that this bill is in the usual form and that there are no surprises attached.

(*See Appendix "B", p. 3786.*)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as we have said on other occasions, the Senate very seldom—and in my experience never—has refused the government supply, but that does not mean we are not interested in the subject of the Estimates. That is why Senator Doody has pointed out that we follow the procedure of referring, without debate, the Estimates to our Standing Senate Committee on National Finance, which then studies them and reports to the Senate. That way the Senate has some material to consider when the supply bill or the appropriation bill that follows the Estimates is presented to us for approval.

Therefore, honourable senators, I draw your attention to the reports of the committee on the Estimates and the explanation given by the chairman of the committee, Senator Leblanc. The report of the committee itself is in the *Debates of the Senate* of June 7, 1988, at page 3611. There the committee reports on the explanation given by Mr. Mazankowski, the President of the Treasury Board, with reference to the Main Estimates, and the figures are there set out. The report says:

> . . . the government expects to make budgetary expenditures totalling $132.3 billion. Of this, the government has identified $119.4 billion in the Estimates representing a 7.7% increase over comparable estimates from the previous fiscal year. The remaining $12.9 billion is reserved for supplementary expenditures and other provisions.

and these are identified in Table I to the report as Appendix A.

The only other items I think worth highlighting from the report itself are those found on page 3612, as follows:

> However, in its report on Comprehensive Auditing (Eighteenth Report),—

That is, of the Standing Senate Committee on National Finance—

> the Committee stated:
>
> When governments establish programs with objectives that foster multi-year financial commitments, but with uncertain timing, those objectives may not be consistent with a system of annual appropriations; in short achieving effectiveness may not be consistent with legislative compliance.

I continue with the quotation:

> The Committee wishes to remind the government once again of this important fact and to indicate that in its future business, the Committee will watch for and report on instances where legislative compliance and annual appropriations may not lead to effectiveness.

Turning then to the explanations given by the chairman of the committee following that report, those comments appear at page 3677 of the *Debates of the Senate* of June 15 of this year, and again the figures I have just mentioned are repeated. At the bottom of that page, the chairman said:

● (1450)

> Some Committee members said they were concerned about the difficulty experienced by the government in reducing the annual deficit, when so much of the annual estimates were taken up with statutory expenditures.

That is a longstanding concern of members of that committee and I believe of the Senate itself. Then, on page 3678, the honourable senator is reported as saying:

> Committee members took this opportunity to remind the government of its past observations about the incompatibility of the legislative requirement of annual appropriations with programs with uncertain timing of expenditures.

That is a reference to the quotation that I had already made from the report itself. With those caveats and observations on the record, I believe that we should support this appropriation bill.

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?

Hon. C. William Doody (Deputy Leader of the Government): With leave, now.

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

Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I believe we should adopt the motion for third reading now rather than following the usual procedure of one day's notice, because the Deputy Leader of the Government in the Senate has advised that he has plans for Royal Assent today.

Motion agreed to and bill read third time and passed.

CUSTOMS TARIFF

BILL TO AMEND (CODE 9956)—SECOND READING

Hon. Orville H. Phillips moved the second reading of Bill C-135, to amend the Customs Tariff (code 9956).

He said: Honourable senators, the amendments contained in Bill C-135 are of a technical and non-controversial nature.

Senator Frith: Famous last words!

Senator Phillips: They extend the specified period for the prohibition of the importation of obscene materials. Customs

officers are frequently confronted with people who wish to import obscene materials, which include child pornography and other such items considered not desirable. Under the provisions of the Customs Tariff now before us, customs' officials must prohibit the importation of such materials and thereby prevent them from entering the Canadian market. As honourable senators may recall, a sunset clause was initially inserted into the provision in 1985 in anticipation of new legislation on pornography that would include amendments to the Customs Tariff and the Criminal Code. The original sunset clause has since been amended on two separate occasions in order to extend the prohibition while the proposed pornography legislation was under consideration by Parliament. The current prohibition is now set to expire on June 30, 1988. The date included in the sunset clause has approached much more rapidly than Bill C-54, which is under consideration in the other place. In order to continue the prohibition on the importation of obscene materials, I urge the Senate to give rapid approval to this amendment contained in Bill C-135.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the technical information given by Senator Phillips is, I believe, quite correct. If honourable senators will look at the bill, they will see that it is very short and, I suppose, in that sense, it is not controversial. In fact, it contains just one clause, which reads as follows:

> 1. Code 9956 in Schedule VII to the *Customs Tariff* is amended by striking out the words following paragraph (*d*) thereof and substituting the following therefor:
>
> "(This code expires December 31, 1989.)"

I asked for a copy of code 9956, and it prohibits:

> Books, printed paper, drawings, paintings, prints, photographs or representations of any kind that
>
> (*a*) are deemed to be obscene under subsection 159(8) of the *Criminal Code*;
>
> (*b*) constitute hate propaganda within the meaning of subsection 281.3(8) of the *Criminal Code*;
>
> (*c*) are of a treasonable character within the meaning of section 46 of the *Criminal Code*; or
>
> (*d*) are of a seditious character within the meaning of sections 60 and 61 of the *Criminal Code*.

Now we come to the words that this bill is particularly concerned with, and they are:

> (This code expires June 30, 1988)

Honourable senators, I am putting the actual code on the record because I asked someone to watch the debate in the other place, and that person reported to me that at least one member of the House of Commons, a member of the NDP, stated that he felt uncomfortable passing this legislation so quickly and hoped that the Senate would take a careful look at it to be sure that it was in order.

Senator Stanbury: An NDP member said that?

Senator Roblin: Extraordinary!

Senator Frith: That is why I have put it on the record.

[Senator Phillips.]

An additional point that should go on the record is the political context of this legislation. Senator Phillips touched upon it. As he pointed out, Bill C-54 has been the subject of some controversy. That is, there are some elements in the country, including political parties, that do not agree on Bill C-54. Though they support the idea of curtailing and properly controlling pornography, they feel that Bill C-54 goes too far. Of course, Bill C-54 would have made Bill C-135 unnecessary, because it includes a solution to this problem of the expiry of the code item.

I also asked for and received a copy of the minister's speech, for which I thank the department. In it the minister made some of the points that Senator Phillips made, and he also recognized that Bill C-54 was a matter of some debate in the House of Commons and in the country generally. So I suppose one could say that the passage of this bill takes the heat off Bill C-54. However, I do not think that that is a reason to permit the uninhibited flow of pornographic material at the border. In the absence of Bill C-54, the only way to solve that problem—and we have the undertaking of the government that they are not going to be in a position to have Bill C-54 passed—is to pass the bill before us.

• (1500)

However, as a further assurance to those in the House of Commons who want to be sure that we do our job properly, I hope that Senator Phillips, when we give the bill second reading, as I propose we do today, will move that we consider the bill with the minister in Committee of the Whole before third reading. In that way we will have the opportunity to be our usual careful and efficient selves in making sure that this bill ought to be passed as quickly here as it was in the other place.

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?

Hon. Orville H. Phillips: Honourable senators, I move that the bill be referred to Committee of the Whole and that the Senate do now resolve itself into a Committee of the Whole for that purpose.

The Hon. the Speaker: It is moved by the Honourable Senator Phillips, seconded by the Honourable Senator Bielish, that the bill be referred to Committee of the Whole.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

CONSIDERED IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Senator Bélisle in the Chair.

The Chairman: Honourable senators, the Senate is now in Committee of the Whole to take into consideration Bill C-135, to amend the Customs Tariff (code 9956).

Senator Doody: Honourable senators, the minister, the Honourable Tom Hockin, is outside. I would ask permission to invite him to join us for consideration of the bill.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Pursuant to rule 18 of the *Rules of the Senate*, the Honourable Tom Hockin, Minister of State (Finance), was escorted to a seat in the Senate Chamber.

Senator Doody: Honourable senators, I would like to introduce the minister responsible for this bill, the Honourable Tom Hockin. He, in turn, will introduce his official. I am sure he will invite questions from you.

The Chairman: Honourable senators, it is my pleasure now to invite Mr. Hockin to introduce his official and to make an opening statement if he so wishes.

The Hon. Tom Hockin, Minister of State (Finance): Mr. Chairman, honourable senators, I have with me today Ms. Carole Nelder-Corvari from the Department of Finance.

I am here to introduce and speak briefly to the bill before us. This is an extension to the present Customs Act, which will allow us to continue to prohibit pornographic literature, seditious literature, hate literature and the like at the border without changing any of the content of our legislation with regard to that area. We are just extending the deadline.

The right to prohibit these goods will expire on June 30, and this bill will extend that deadline for another 18 months.

Of course, we had hoped to extend this authority with Bill C-54, but at present Bill C-54 has not passed the House of Commons. Therefore, this has to be done by way of this separate bill.

Honourable senators will know that the House of Commons very quickly passed this bill, without dispute, this morning, because it is very important that we continue to enforce the proper prohibitions on this material at the border. If this bill is not passed by July 1, we will be vulnerable to this material coming in since we would have no legal authority to stop it.

Essentially, this bill, as I have said, affects obscene material, hate propaganda, treasonable material and seditious material.

Senator Frith: As I understand it, the bill before us is made necessary because it is improbable that Bill C-54 will be sent to this place at all in this session of Parliament.

Mr. Hockin: I would not assume that, Mr. Chairman. If we can receive the cooperation and a careful but reasonably quick treatment of Bill C-54 in the House, then the premise of the senator's statement would not be true. I do not think we should jump to any conclusions about this not occurring before an election or before the end of this session.

Senator Frith: The reason I say that is that unless there is something wrong with my arithmetic the mandate of the present government expires in September of 1989.

Mr. Hockin: Mr. Chairman, I will not get into a debate about that. I think, in fact, it could go longer, but I would defer to Senator Frith on matters of constitutional expertise with regard to that.

The point here is that 18 months is a moderate period to give a signal, and the signal is this: that we have every intention of having our legislation with regard to pornography and other matters passed in a reasonable period of time. If we had had no intention of doing that, we would have asked for an extension of, say, three or four years. Eighteen months is a signal that we want to pass the bill in the very near future, not in the distant future.

Senator Frith: If there were an election close to the end of the five-year period, assuming that it is not extended, then you would have an additional few months for extension of this code until the end of the year 1989; is that correct?

Mr. Hockin: That is right.

Senator Frith: The items of the code that are extended are printed paper, drawings, paintings, prints, photographs and other representations of any kind that are deemed to be obscene under section 159(8) of the Criminal Code. At least Bill C-54, if it had been passed, would have looked after that, and made this unnecessary.

• (1510)

Mr. Hockin: Yes, because C-54 is about questions of obscenity.

Senator Frith: Right.

> (*b*) hate propaganda within the meaning of subsection 281.3(8) of the Criminal Code.

Is that dealt with? Would that have been affected by Bill C-54?

Mr. Hockin: I do not believe so.

Senator Frith: Therefore, (*b*) would have to have been extended anyway, is that right?

Mr. Hockin: Yes.

Senator Frith:

> (*c*) of a treasonable character within the meaning of section 46 of the Criminal Code.

Again, if you had wanted to extend that, you would have been here on this—C-54 or not—some time before June 30. Is that correct?

Mr. Hockin: That is right.

Senator Frith: And:

> (*d*) of a seditious character within the meaning of section 60 and 61 of the Criminal Code.

That also would have been in that category.

Mr. Hockin: That is right, Mr. Chairman.

Senator Frith: Why was the June 30 date or sunset applied to (*b*), (*c*) and (*d*) if there was no legislation pending to supersede that expiry?

Mr. Hockin: Mr. Chairman, they have always been kept together as part of the same prohibition, and that is why they have not been unbundled.

Senator Frith: The government then has no intention of bringing in other legislation to replace (*b*), (*c*) and (*d*) or it would simply have asked for the extension of the time in the normal course, when clock ticking was imminent, as provided for in the June 30 date; is that right?

Mr. Hockin: Mr. Chairman, I think that is largely right, although there have been some questions and discussions in the other place about the handling of hate literature.

Senator Frith: All right. Thank you, Mr. Chairman. Those are my questions.

The Chairman: Thank you, Senator Frith. Senator Buckwold?

Senator Buckwold: Most of my questions have been asked by Senator Frith. However, perhaps you could explain to me how Bill C-54 achieves what you already have in the legislation and which we are extending now to December 31. We have not had Bill C-54 in front of us. I want to know whether there is a direct reference in the legislation to everything that we are talking about today?

Mr. Hockin: There are consequential amendments in Bill C-54 that would take out the sunset clause that is in there. That is how the question of the deadline arises in Bill C-54. I am sorry, I cannot quote to you the exact clause because I did not bring the bill with me.

Senator Buckwold: Under Bill C-54, there would have been, as you say, clauses that would have eliminated this, in any case. Why do we need it here at all? Why do we not just have the prohibition without a sunset clause?

Mr. Hockin: Mr. Chairman, Bill C-54 links new definitions to these categories and takes out the sunset clause. The reason it was necessary to act in this bill is that we have not passed Bill C-54.

Senator Buckwold: But you have not answered my question as to why, in fact, we need a sunset clause at all. If code 9956 in Schedule VII was there without a sunset clause, would there be any conflict? If not, then we would not have to worry, in case your legislation was held up even further.

Mr. Hockin: I think, Senator Buckwold, I may have misled you. Bill C-54 removes the sunset clause. Therefore, the prohibitions would continue into time until the bill was changed in the future. The sunset clause is in there now in anticipation of Bill C-54, so that it will not bump up against it. As I have said, it is in there in anticipation of Bill C-54 being passed.

● (1520)

Senator Buckwold: I can follow that, but why have a sunset clause at all in the original legislation? Every time there is a delay with Bill C-54 you will have to extend the sunset clause, and some things will not be covered.

[Senator Frith.]

Mr. Hockin: The government wanted to make it clear that it intended to bring in new legislation, and putting a sunset clause on the *status quo* is a way of making that point clear, and the government is making it clear again by just giving 18 months rather than three years, five years or whatever.

Senator Sinclair: How long did the original sunset clause operate?

Mr. Hockin: There have been three events; this is for 18 months, the previous was for six months, and the one prior to that was for 18 months.

Senator Sinclair: You said, Mr. Minister, that there was linkage between Bill C-54 definitions and those covered in the Criminal Code at the present time. Is that so in each of the three different areas, sedition, obscenity and hate literature? What do you mean by "linkage"?

Mr. Hockin: The only category of behaviour that is being treated in Bill C-54 is obscenity. There is discussion in the House of Commons about perhaps looking at hate propaganda, but nothing formal has been done. Bill C-54 will contain nothing about hate propaganda, treasonable literature or seditious literature.

Senator Sinclair: It is only in obscenity, is it, that there is a linkage between Bill C-54 and the existing sunset clause?

Mr. Hockin: That is right.

Senator Stewart (Antigonish-Guysborough): My question relates to the Free Trade Agreement, which, as I understand it, is to become effective on January 1, 1989.

Let us suppose that a publisher in the United States finds that a book which he expected to sell profitably in Canada is excluded from admission to Canada under an interpretation of Schedule VII of the Customs Tariff. Let us suppose the publisher says, "No, my book is not pornographic. The Canadian government, or rather the appropriate minister, or his minion, is excluding my book from the Canadian market for ulterior reasons, perhaps because it competes with a similar Canadian book." Let us suppose that the publisher in the United States proposes to challenge the exclusion as contrary to the Free Trade Agreement. Would the Free Trade Agreement give such an American publisher any new grounds for making a challenge to the application of the Customs Tariff against the product?

Mr. Hockin: Mr. Chairman, perhaps I anticipated Senator Stewart's question too early, but I think the essence of the question was: How do the obscenity provisions of the Criminal Code and Bill C-54 square with the Free Trade Agreement?

A country's obscenity legislation takes precedence over GATT, and that is not viewed as being a non-tariff barrier. The Free Trade Agreement is consistent with the GATT; therefore, our obscenity provisions would remain regardless of the Free Trade Agreement.

Senator Stewart (Antigonish-Guysborough): So, in a word, you are saying that the Free Trade Agreement in no way will cast a shadow on the legitimacy of any interpretation put on

Schedule VII of the Customs Tariff by the appropriate Canadian authority.

Mr. Hockin: I cannot think of any context in which that would not be true.

Senator Flynn: If I recall correctly, the sunset clause, when it was inserted in a bill sponsored by Senator Nurgitz in 1987, which is now Chapter 49 of the Statutes of 1987, dealt only with adding the description of obscene material. The rest of the material described was already covered by the legislation and we only wanted to be able to stop obscene printed material.

Mr. Hockin: We put the sunset clause in in 1985 to indicate our resolve to bring in a new piece of legislation, but we also did a linkage between the obscenity provisions and the Criminal Code in 1985.

Senator Flynn: The linkage would be between hate literature and provisions of the Criminal Code. That, of course, is a linkage, but I think in 1987 we dealt only with obscene material.

Mr. Hockin: In 1985 all of these categories—hate propaganda, treasonable material, seditious material and obscene material—were linked.

Senator Flynn: And then what did you do? You stood them after? Is that it?

Mr. Hockin: No.

Senator Flynn: I thought you wanted to eliminate a loophole with regard to obscene material when this sunset clause was brought in.

Mr. Hockin: Mr. Chairman, I will ask the official at the table to help me with this, because I think what Senator Flynn is harking back to is a court decision of 1985 that changed this, making the description of all of this somewhat convoluted.

Ms. Carol Nelder-Corvari, Tariff Officer, International Trade and Finance Branch, Department of Finance: In 1985 there was a Federal Court of Appeal ruling which declared that the description of obscenity was unconstitutional because it contravened the Charter. So at that time the government moved quickly to insert linkages to the Criminal Code in order to use the specific definitions under the Criminal Code to make it constitutional.

At that time the first sunset clause was inserted, and since that time the sunset clause has been amended on two separate occasions; but that is all that has been amended.

Senator Flynn: That is all I wanted to have on the record—that is, that at that time there was a judgment of the Federal Court of Appeal which forced this amendment with regard only to the question of obscene material. I had some doubts as to the validity of that provision. Has that provision been challenged since then?

Mr. Hockin: We first had the challenge in the *Keegstra* case.

Senator Flynn: I know about that. We have the judgment of the Alberta Court of Appeal, but I was thinking only of the obscene aspects of the materials.

Mr. Hockin: There is no challenge.

Senator Flynn: Not up until now?

Mr. Hockin: Not up until now on the obscenity parts.

Senator Flynn: But you will probably have the same problem with this situation as you are having with Bill C-54.

Mr. Hockin: Yes.

Senator Flynn: In any event, I just wanted to put it on the record.

Mr. Hockin: I should tell the senators that, with regard to the hate literature question, the ruling by the Alberta Court of Appeal will not affect the ability of the federal government to apply the prohibition. I think it is important that the Senate know this. The ruling made by the Alberta Court of Appeal will not affect the ability of the federal government to apply the prohibition on importations of hate literature on a national basis so long as we extend the authority, which we are doing today.

Senator Flynn: Are you sure about that? First of all, it is not a final judgment. It may be crushed by the Supreme Court. But, since you referred specifically to that provision of the Criminal Code which has been ruled invalid and unconstitutional, I do not see how you can say that this could be viewed this way.

Mr. Hockin: Senator Flynn, the ruling of the Alberta Court only applies to the ability of the Attorney General of that province to prosecute for the offences cited under Section 281 of the Criminal Code.

Senator Flynn: I am not worried about that aspect now, although I think you will eventually have a problem if the judgment is maintained.

Senator Frith: I have not read the judgment, but did it refer only to the authority of the Attorney General to prosecute? It did not find, in fact, that there was an infringement of Section 2(*b*) of the Charter?

Mr. Hockin: My understanding is that it applies only to the ability of the Attorney General of that province to prosecute for the offences that are cited under that section of the Criminal Code.

Senator Frith: So it was a procedural question rather than a matter of infringing the Charter. I am surprised, but we can look it up ourselves.

Senator Flynn: For the time being the judgment only applies in Alberta, because that is where it was rendered. That is something else. If it was maintained by the Supreme Court of Canada, of course, it would apply all across the country.

Senator Frith: But, in the meantime, if someone is charged in Ontario, I can certainly cite the Alberta Court of Appeal as a defence. It is interesting, and I agree with Senator Flynn

that, if you have a problem, you will have it in another context and it will not be affected by our extension of it. I think Senator Flynn's point is that you refer to the specific section that was, I believe, the subject matter of the Alberta Court of Appeal decision; so there may be some mines down the road for you on that matter. But it does not affect whether or not we should extend it.

The Chairman: Honourable senators, if there are no other senators who wish to participate, I would like to thank the minister for coming.

Shall the title of the bill be postponed?

Hon. Senators: Agreed.

The Chairman: Shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill, without amendment?

Hon. Senators: Agreed.

The Chairman: Thank you, Mr. Minister.

Mr. Hockin: Thank you.

• (1540)

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Rhéal Bélisle: Honourable senators, the Committee of the Whole, to which was referred Bill C-135, to amend the Customs Tariff (Code 9956), has examined the said bill and has directed me to report the same to the Senate without amendment.

THIRD READING

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

Hon. Orville H. Phillips: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I think it should be put on the record that we have abridged the time for third reading because the Deputy Leader of the Government has told us that provision has been made for Royal Assent today.

Motion agreed to and bill read third time and passed.

[Senator Frith.]

[*Translation*]

TOBACCO PRODUCTS CONTROL BILL

THIRD READING

Hon. Arthur Tremblay moved the third reading of Bill C-51, an Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products.

He said: Honourable senators, I am informed that the corrections contained in the report of the Standing Senate Committee on Social Affairs, Science and Technology concerning Bill C-51 have been made and that they have been given to the Clerk of the Senate, as required.

Given this development and given also that permission had been given earlier to proceed as soon as these corrections were made, I now have the honour to propose third reading of Bill C-51.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, if I understand correctly, this means that the Senate has done its homework and that the version of the bill we are about to read for the third time is correctly drafted without exception.

Senator Tremblay: Exactly. That is precisely what has been done and we are therefore justified in proceeding to third reading of a bill which is free of technical errors.

Senator Frith: Agreed.

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

Some Hon. Members: Agreed.

Motion agreed to and bill read third time and passed.

[*English*]

IMMIGRATION ACT, 1976

BILL TO AMEND—REVISED MESSAGE FROM COMMONS—DEBATE ADJOURNED

On the Order:

> Consideration of the revised Message from the House of Commons regarding certain amendments to Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof.—(*Honourable Senator Doody*).

Hon. Nathan Nurgitz: Honourable senators, with respect to this matter, I move:

> That the Senate concur in the amendments made by the House of Commons to its amendments 1(*b*), 3, 4, 9(*a*) and 11 to the Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof;
>
> That the Senate do not insist on its amendments 1(*a*), 2, 5, 6(*a*), 7, 8, 9(*b*) and (*c*), 10, 12(*a*) and (*b*);
>
> That the Senate agree to the further amendments made by the House of Commons to clauses 14, 18 and 29;

That the Senate agree to the further amendment made by that House, adding a new clause after line 31 on page 56; and

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

On motion of Senator Nurgitz, debate adjourned.

[*Translation*]

NON-SMOKERS' HEALTH BILL

THIRD READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Guay, P.C., for the third reading of Bill C-204, an Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising.—(*Honourable Senator Flynn, P.C.*).

Hon. Jacques Flynn: Honourable senators, Senator Tremblay just told us that Bill C-51, which we adopted, was free of technical errors.

We must now ask whether we will pass Bill C-204 with errors! That is the whole problem.

Although the Committee on Social Affairs, Science and Technology reported it to us without amendment, this Bill has several technical defects.

It was obvious to the committee that all members of this house are in favour of protecting non-smokers' rights. The problem with this legislation is how these rights will be exercised without infringing on the legitimate rights of smokers.

Normally, in view of the observations we received from the Law Clerk and Parliamentary Counsel of the Senate, the President of VIA Rail and the Department of Labour, it involves knowing whether we can simply pass this bill even if it means forcing the government to present us eventually with a new bill to correct the technical deficiencies found here.

I could perhaps have moved that the Bill not be read now for the third time but that it be again referred to the same committee or another one to try to correct all these technical errors that have been mentioned. I do not believe that it would be useful to list them again.

In any case, it can only come into force upon proclamation by the Governor in Council, as provided under Section 10:

> Subject to subsection (2), this Act or any provision hereof shall come into force on a day or days to be fixed by proclamation.

The government has the option of introducing amending legislation to act on the various comments that were made.

In the circumstances, I think it is rather amusing to see how at times Parliament may feel pushed by public opinion, as is the case here. These bills were on the Order Paper of the house and Senator Haidasz' bill was in committee for quite some time, and then we saw this avalanche engulf Parliament, and all of a sudden these bills had to be adopted at top speed. It seems that public opinion wants us to say right away: yes, we agree. For the record, I think it is fair to say that normally, we might have taken the time to amend Bill C-204. This often happens with Private Members' bills. It isn't easy for a Member of Parliament to draft a bill that is the least bit complex, and this one certainly is, from the practical point of view. It gets very complicated when you say that you can smoke here and you can't smoke there and that there will be sanctions in certain cases. It is all rather complex. In fact, just after reading the bill, we can imagine the problems involved in implementing this legislation. As I said before, it isn't easy for a member of Parliament to draft his own bill, even with expert assistance. He will never have the kind of expertise that is available to the government, mainly through the Department of Justice, with the assistance of the various departments that may be concerned.

So with these reservations, and if we must and I suppose we must, let the bill, errors and all, receive the final approval of the Senate.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, do I have leave of the Senate to say a few words?

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

Hon. Senators: Agreed.

Senator Frith: Honourable senators, I simply wanted to thank Senator Flynn for once again drawing the attention of the Senate to the errors I referred to on June 21, 1988. If I understand correctly, although there are a number of problems in connection with this bill, denying the bill third reading at this time might kill the proposed legislation altogether, and that is why we agree to adopt the bill on third reading.

• (1550)

[*English*]

Hon. Stanley Haidasz: Honourable senators, Senator Flynn has referred to the work of the Standing Senate Committee on Social Affairs, Science and Technology. Before I make my concluding remarks, I should like to ask Senator Tremblay, the chairman of that committee, if he wishes to make a few remarks, because I was not called by the committee when it was studying Bill C-204.

[*Translation*]

Hon. Arthur Tremblay: Honourable senators, I don't have any particular comments to make about the specific question Senator Haidasz is referring to. If I understood him correctly, he assumes he has not been "called" to our committee, I think that is the word you used. But we did invite you. At one point, I even suggested that you stand in for some of the other members of the committee so that you could become formally one of ours, which would have given you the opportunity to participate more fully and more directly. However, the point of the matter is, I think, that you could not make it on the day our committee was meeting. So, we had two choices: either delay the study of that bill or do it our way. The committee chose the second option with the result that the bill was

returned to the Senate without amendment. I would imagine that you, as the mover, would not push your objection, due to the fact that you could not come that day to our committee's meeting, as far as to ask us to begin the study all over again. From your comments, I think that would be a farfetched conclusion to reach. But, after all, that is your business.

[*English*]

Senator Haidasz: Honourable senators, I only wanted to correct a statement that Senator Flynn had made. Senator Tremblay has now put the statements and the facts on the record.

This being the threshold of the passing of a very important health bill in this chamber, I should like to thank all honourable senators—including the chairman of the committee and Senator Flynn—for cooperating in expediting the study and passage of Bill C-204.

Motion agreed to and bill read third time and passed.

● (1600)

EMERGENCIES BILL

CONSIDERATION IN COMMITTEE OF THE WHOLE CONCLUDED

On the Order:

> The Senate again in Committee of the Whole on the Bill C-77, An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof.

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other acts in consequence thereof, the Honourable Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, the Senate is now in Committee of the Whole.

Honourable senators, the committee will resume consideration of Bill C-77. As far as I know, there are no further witnesses to be heard. Is it your pleasure to proceed now with a clause-by-clause study of the bill?

Hon. Senators: Agreed.

The Chairman: Shall the title be postponed?

Hon. Senators: Agreed.

The Chairman: Shall clause 1, the short title, stand?

Hon. Senators: Agreed.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 4 carry?

Hon. Senators: Carried.

[Senator Tremblay.]

The Chairman: Shall clause 5 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 6 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 7 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 8 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 9 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 10 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 11 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 12 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 13 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 14 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 15 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 16 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 17 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 18 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 19 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 20 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 21 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 22 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 23 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 24 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 25 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 26 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 27 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 28 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 29 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 30 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 31 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 32 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 33 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 34 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 35 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 36 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 37 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 38 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 39 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 40 carry?

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, I am sorry to break your momentum. Clause 40, subclause (1), states:

> While a declaration of a war emergency is in effect, the Governor in Council may make such orders or regulations as the Governor in Council believes, on reasonable grounds, are necessary or advisable for dealing with the emergency.

The record of the debate on Bill C-77 in the other House and the record of the consideration of that bill by the committee of the other House suggests that the members did not realize that they were delegating to the Governor in Council the authority to conscript Canadians to serve in the armed forces. Certainly, if they did realize that, little or nothing was said about that important delegation of power.

The Minister of National Defence, when he was before this committee, told us that clause 40 would authorize the government to introduce conscription by order in council. Honourable senators will agree that Parliament should not delegate so great a power to the Governor in Council in general and inclusive words. The minister told us that the government is not asking for the power to impose taxes by order in council; yet we are being asked to give the government the power to conscript personnel. "Send men, not money" is hardly a proposition to which senators would wish to subscribe. I hope that such a proposition would not attract the support of members in the other place.

Accordingly, Mr. Chairman, I move:

> That clause 40 of Bill C-77, on page 20, be amended by adding, immediately after subclause (1) thereof, the following subclause:
>
> (1.1) The power under subsection (1) to make orders and regulations may not be exercised for the purpose of requiring persons to serve in the Canadian Forces.

The Chairman: It is moved by the Honourable Senator Stewart (Antigonish-Guysborough), seconded by the Honourable Senator Sinclair:

> That clause 40 of Bill C-77, on page 20, be amended by adding, immediately after subclause (1) thereof, the following subclause:
>
> (1.1) The power under subsection (1) to make orders and regulations may not be exercised for the purpose of requiring persons to serve in the Canadian Forces.

Is it your wish, honourable senators, to adopt the amendment?

Senator Bonnell: Honourable senators, before you vote on the amendment, does that mean that according to this legislation—this is the first that I have heard of this—the government of the day has passed a bill that is prepared to demand, by order in council, that people put their lives at stake rather than their pocketbooks? They will not pass taxes by order in council, but they will ask them to put their lives up by order in council without an act of Parliament?

In this modern day, with airplanes, telex, telephones and Fax machines, Parliament can be convened quickly in order to pass an act of Parliament rather than conscripting people. Surely to goodness we do not need to have orders in council to have people put their lives on the line when we do not ask them for taxes by the same method.

Senator Flynn: Honourable senators, Senator Stewart has proposed an interesting amendment.

If the generality of the terms of clause 40 has to be limited in the way suggested, it should be limited in many other ways also. Senator Bonnell may be surprised to know that the present legislation, the present War Measures Act, says exactly the same thing, and yet it has never been used to apply conscription; it has never been used to impose a tax; it has never been used in this way.

I suspect that if any government were to try to take away the discretion of Parliament in these important matters—other than those attempts or experiments in the previous two world wars—Parliament would certainly step in, as it has the right to do because there is a control by Parliament over these decisions. The government has to report to Parliament, and Parliament may intervene, as is provided in some clauses later on.

If we are to give to the terms of clause 40 the meaning suggested by Senator Stewart, we will have to go much further and say that that does not include the power to tax—or the power to do a few other things that do not come to mind at this point.

I do not know if he really wants this amendment to be voted on; if he merely wants to draw the attention of the house to the wide implications of the text of subclause (1) of clause 40, I agree with him. However, if we are to limit this text, we will have to consider many situations other than this one. I certainly would not be prepared to support his amendment without also supporting a host of other amendments that would have to be considered.

Senator Olson: Honourable senators, Senator Flynn has just given the best of reasons for supporting Senator Stewart's amendment. He said two things:—

Senator Flynn: That is your view, but possibly someone else has something to say.

Senator Olson: Perhaps I could have a few quiet minutes in which to express my views; after all, we granted you the courtesy of silence.

• (1610)

In any event, it seems to me that Senator Flynn has indicated that, while that authority was there, in fact, under the War Measures Act—

Senator Flynn: There is no question. It was there!

Senator Olson: No one is disagreeing with you, but what Senator Stewart said was that it was never used during those two wars. When conscription was asked for, the Prime Minister of the day came to Parliament and sought authority from Parliament to invoke it, whether or not he had authority under the War Measures Act to do so. I am not arguing whether or not he did it; I am just assuming that the government had the authority to do so through the Governor in Council.

Senator Flynn: What I suggested was that, if it was not done, it was because they did not think that they were allowed to do it.

Senator Olson: Well, honourable senators, there may also have been a couple of other reasons, but, in any event, the point that I am making is that we went through two world wars and approximately 70 years with this provision in the War Measures Act. If it was not used even under the most severe conditions in all of that time, then we should not put it back into law now. If the government intends to impose conscription, as Senator Bonnell has pointed out, and to force people by law to join the armed forces, then surely we should make it a statutory requirement that the government must come and ask Parliament for that authority.

[Senator Flynn.]

Therefore, in my view, that is the very best reason for supporting the amendment that has been moved by Senator Stewart.

Senator Bonnell: Honourable senators, what Senator Flynn has said is probably 100 per cent right; Mackenzie King, in his time, went before Parliament to ask for conscription and would have been given permission by order in council. Of course, in those days we did not have airplanes and other such quick methods to call Parliament together. However, this is 1988. Let us not go back to the old days by giving to a few people the power to conscript our young men and women and ask them to put their lives on the line, when this matter can be dealt with by a Parliament which can now be called together within two days. The members of both houses can be present here in Parliament to consider the matter and Royal Assent can be given, all in one day. But at least the representatives of the people of this country would have an opportunity to have their say.

Imagine a scenario in which the government of the day has the authority to put through an order in council to send our boys and girls overseas to fight in a war. Then, a month later, Parliament is called back and rejects that order in council. What happens then? Must we then bring everyone home again?

Honourable senators, this is 1988; let us be practical about these matters. Surely it should not be left to the whim of a few people in cabinet to make that immediate decision to conscript our Canadian boys and girls into the armed forces without giving the representatives of the people of this country the opportunity to be heard and to speak on their behalf.

Senator Flynn: I do not want anyone to believe that I agree with the interpretation put on this clause by Senator Stewart. However, I was sufficiently reminded of the experience during the two world wars to say that, in fact, I would never interpret the text in the way that this amendment would suggest it could be interpreted.

There is also, of course, a big difference in this legislation that has to be underlined, and that is that we now have the Charter of Rights and Freedoms, which is applicable to the powers granted to the government and restricts the powers given to the government.

Again, if you say that we must restrict these powers, I think the Senate will have to consider many other areas where it would be as sensible to restrict these powers. If that is absolutely what you want, that would be an entirely new exercise than the one proposed by Senator Stewart.

Senator Stewart (Antigonish-Guysborough): No, Mr. Chairman. I think Senator Flynn is correct in asserting that the power that would be delegated by clause 40 is similar to the power delegated in the War Measures Act. There is no real change in the power delegated.

However, Senator Flynn says that he disagrees with my interpretation. I must tell him that I am not relying on my own

interpretation. When I spoke at second reading I quoted what the Prime Minister of the day in 1942 and 1944 said, and earlier today I quoted what the Minister of National Defence, Mr. Beatty, said on May 31, 1988. Honourable senators, on this very point, Mr. Beatty said:

> With regard to conscription, our advice is that this would be legally possible by order in council under Part IV of Bill C-77.

That is Mr. Beatty's interpretation, and I think his interpretation is correct. I do not know why Senator Flynn has problems with accepting the interpretation given by the Minister of National Defence.

We then come to the other question: If Parliament, in fact, does delegate this power anew, will it be used? Honourable senators, that is a matter of speculation. Surely we ought not to grant this power simply on the basis that it might not be used. As a matter of fact, although it was not used in World War I, we must recall that the War Measures Act was used to change the provisions with regard to exemptions from military service. Also, during World War II, in the fall of 1944 it was used as one of the two bases for sending some 16,000 Canadians overseas. Thus we see that, although the government of the day felt that for political and not legal reasons it should not use the power that had been delegated to it under the War Measures Act, it did use those powers in closely related situations.

In any case, honourable senators, what I am saying is that the House of Commons did not confront this question. They did not say in express words that they wished to delegate to the Governor in Council the power to introduce conscription. One of the functions of my amendment will be to allow the House of Commons to decide, and declare overtly, whether they wish to delegate to the Governor in Council the power to introduce conscription.

Some Hon. Senators: Hear, hear!

Senator Roblin: Mr. Chairman, I should like to add a word on this point. I must admit it is a matter I have not heard discussed in detail—as to the effect of the large powers conferred by clause 40 which we are now discussing. It strikes me that there are a good many other powers besides the one we are discussing that would probably need to be considered, as Senator Flynn has suggested, if we decided that we were going to modify the powers in this clause.

It seems to me, however, that we have overlooked the fact that these powers are not absolute. The impression I have received from the discussion so far is that these powers are absolute. Honourable senators, I do not think they are, because there is a provision in this bill for parliamentary supervision. In other words, within a short time—I think it is seven days after the declaration of a war emergency—Parliament must be convened to deal with the matter. Surely, if there has been any excess of zeal or excess of authority, or even ill-advised policy on the part of the government at the moment the emergency is declared and measures are taken unto it, the Parliament has an opportunity—and in fact a duty—within a very short period of time to confirm or not to confirm the actions taken by the executive in respect of this matter.

I have to advise the committee at once that I do not pose as an expert on this bill. It may be that I have misinterpreted it. I do not think I have, but it is quite possible I have not given it a correct reading. However, if I have given it a correct reading, it makes me feel a lot better, because it means that the unauthorized or the extra-parliamentary activities of the executive are not free. There is a constraint upon them, and that constraint is the right and duty of Parliament to supervise what is being done.

This bill specifically states—and I think it is a distinct improvement over what we had before—that if a state of emergency is declared then the provision for Parliament to exercise its role as the arbiter of policy in the nation is clearly set out within what I think is a reasonable space of time. So I do not feel so bad about the fact that the clause is sweeping in its mandate. In fact, it seems to me that such a proposal is probably appropriate, particularly if you have this restraint of parliamentary supervision that is provided.

● (1620)

If any government was so ill-advised as to tax somebody, as I think they could under this section, or so ill-advised as to conscript somebody, as I think they could do under this section, they would not be immune from parliamentary supervision or from parliamentary approval or disapproval of what they had done—and that in short order; it is not a lengthy period of time. So I would be reluctant to upset the wording of this legislation on the argument we have received.

While in theory the power of the Crown may be as set out here—indeed, as it has been in all legislation of this type that I am aware of, first, that does not mean that the Crown will automatically do these things, and, second, even if the Crown were so ill-advised as to use this clause to justify a policy of the kind I am talking about here, Parliament would have its say. That is the sanction that really counts. So it seems to me that, while the point is interesting, it is not one we should accept without further consideration at this moment.

Senator Frith: Honourable senators, I think the points raised by Senators Flynn and Roblin are well taken, and I think it is important that they were raised. I part company with them only on using those points to support resistance to the adoption of this amendment. On Senator Flynn's point, there may very well be other areas that would merit amendment, but that does not diminish my support for this one. As to the point raised by Senator Roblin, he is right that this bill does not throw parliamentary review out the window. The difficulty is that parliamentary review only applies after the fact. In the context of political reality, there is quite a difference between requiring the executive, no matter which party may dominate it, to go to Parliament and ask it to do something as important as has been described and requiring the executive to go to Parliament to ask for its imprimatur after the act is done.

For those reasons I do not cross swords with Senators Flynn and Roblin on the points they have raised, but I argue that they do not diminish my support for this amendment. I think we should carry it anyway.

Senator Roblin: Mr. Chairman, I cannot really see the force of my friend's argument that to ask for approval after the fact is different from having to initiate it in the first place. The fact is Parliament will debate the issue, if it wishes to, under either circumstance, and Parliament will get its way under either circumstance. I feel comfortable with that view of parliamentary procedure and, while not having had to exercise such responsibility in the federal legislature, I recognize the weight that rests on the executive to get approval of this measure. Whether it seeks that approval through a review procedure or in advance, it will be the same tough proposition and will have to be well substantiated to be accepted by the people of the nation.

Senator Frith: Perhaps I did not express my point very well. Let me express it in this way: To me there is a great difference between saying to someone, "Come and convince me that I should do something" and coming to me and saying, "Please convince me why I should not have done it." The burden is quite different.

Senator Roblin: But you do not have to convince just anybody; you have to convince members of Parliament.

Senator Frith: If we pass this amendment, it will put the government in the position that they are normally in; namely, that of having to go to Parliament and say, "This is what we propose, and we ask for your support." If they go to Parliament after the fact, then they say, "We've done it. Now, you review it and tell us why we shouldn't have." There is a big difference.

Senator Roblin: You still have to convince the individual members of Parliament that it is a good thing.

Senator Flynn: They could expropriate and do all sorts of things that are not contemplated.

Senator Lang: Mr. Chairman, with respect to the other opinions, I think this discussion is quite academic. In fact, if any executive or cabinet brought in conscription without prior parliamentary consent, it would be doing so under circumstances when our parliamentary institutions had disappeared either through internal revolution or through an external atomic attack, say, on Ottawa. Therefore, I am not concerned about this problem. In fact, if honourable senators look at the history of Germany, they will see that the absolute power of the Nazis was accomplished with prior Reichstag approval. In our system of government, nothing like a unilateral declaration by the cabinet proposing conscription could possibly come about unless our parliamentary institutions had been completely disabled.

Senator Neiman: Honourable senators, I wonder if Senator Roblin would clarify for me a point he just made. I believe he stated that Parliament would have to ratify such a decision within seven days. I am looking at clause 58 and, as I read it, it applies only upon the declaration of a war emergency. Unless I have missed the pertinent part, it does not apply to any order made under the war emergency.

Senator Roblin: I take a broad view of the expression "war emergency". I take the expression to mean what is being done under that particular heading. If a war emergency was declared and conscription was involved, to suggest that Parliament would meet without discussing the issue, I think, is unrealistic.

Senator Neiman: I quite agree, but I would think that the only requirement is to ratify the declaration of war emergency. Parliament may very well choose to do so, but the Governor in Council is then no longer required, at least as I read the legislation, to consult with respect to any order made once that declaration has been ratified.

Senator Roblin: Without being able to put my finger on the exact clause, certain other portions of this bill refer to parliamentary supervision and it may be that they are relevant to this issue; I really cannot say. I take the view, however, that anything done under war emergencies legislation would certainly be grist to the parliamentary mill when it was asked to approve these items. And to think for one moment that, for example, taxation by order in council or conscription by order in council would escape the scrutiny of Parliament in that connection seems to me to be unrealistic. I guess the only case where it would not be unrealistic would be the case described by Senator Lang, who says, "Well, if our parliamentary institutions are not here . . ." If they are not here, there is nothing here.

• (1630)

Senator Neiman: I agree with Senator Roblin's observations, but for greater certainty why should we not adopt this type of amendment?

Senator Roblin: I have given my reasons for that.

Senator Frith: I do not think we are now going to persuade each other. To me, the argument comes down to saying that they probably will not do it; it is unrealistic to think they will do it, therefore, we might as well let them have the power to do it. That is only my opinion. It is not the opinion of Senator Roblin and it is not the opinion of Senator Flynn. I think our different views have been expressed and that the question should be put.

Senator Roblin: I would not like Senator Frith's interpretation of my views to stand, because that is not my interpretation. I do not think one should pass a law because no one is going to use it. One always has to assume that it will be used; otherwise why pass the law? Then one has to look at the fail-safe mechanism, and the fail-safe mechanism here is that, if they do something damn silly—if I might use that unparliamentary adjective—we have the supervisory power of Parliament to put things right, and I rely on that.

Senator Hicks: There is one point which perhaps Senators Roblin and Neiman might take into consideration, and in a sense it supports the position that each of them has taken.

The review provided under clause 58 does, indeed, apply to the declaration of the war emergency only, but the war emergency could be declared in January, let us say, and would be in effect for a stipulated time. Then, in the June following, the actions of the executive to impose conscription could be taken. The review envisaged by clause 58 of the declaration of the war emergency would not apply to that.

I also have to agree with Senator Roblin that it is inconceivable that Parliament would not have, and would not seize, the opportunity to review, comment upon and, if necessary, revise the executive action that displeased them.

The Chairman: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

An Hon. Senator: On division.

The Chairman: We will have to have a division, in that case. The division provides for senators to stand and be counted. Once that begins, there can be no further entry into the chamber. I will now call for the vote and there will be no further entry into the chamber.

Honourable senators, those in favour of the motion in amendment please stand.

Those opposed to the amendment please stand.

Yeas: 25; Nays: 14.

I declare the motion in amendment carried.

Shall clause 40, as amended, carry?

Senator Flynn: Mr. Chairman, I move that the clause be further amended by adding right after the last amendment just adopted "... nor for appropriating any part of the public revenue or for imposing any tax or impost."

The Chairman: It is moved by the Honourable Senator Flynn, seconded by the Honourable Senator Roblin, that clause 40 of Bill C-77, page 20, be further amended by adding immediately after subclause (1.1) the following words: "... nor for appropriating any part of the public revenue or for imposing any tax or impost."

Senator Olson: May we have an explanation? Does this mean the government may not use any of the moneys in the treasury for any of these purposes?

Senator Flynn: If you want to restrict the powers with respect to conscription, you may as well restrict them for these and any other purposes that may come to mind eventually.

Senator Frith: That is not part of the formal amendment: "... any others that may come to mind"?

Senator Olson: I do not have a copy of the proposed amendment in front of me, but I hope I misunderstand what Senator Flynn's intentions are.

Senator Flynn: For Senator Olson's benefit I will say this: Since the Senate has decided that it should restrict the powers provided in section 40, I want it to go further. If an amendment is necessary to deal with the problem of conscription, one should also be necessary to prevent the Governor in Council from appropriating any part of the public revenue or imposing any tax or impost by order in council, in the same way that you say conscription could be imposed.

Senator Olson: Honourable senators, I was prepared to support Senator Flynn's amendment if it was only to deal with the imposition of taxes by Governor in Council, but the wording—and I do not have it in front of me—seems to imply that the Governor in Council would not have the authority to use the revenue from whatever taxation already exists for the pursuit of some of these measures.

Senator Flynn: No.

Senator Olson: That is what he appears to say.

Senator Hicks: Perhaps it should be read again.

Senator Flynn: Section 53 of the British North America Act, 1867 states:

> Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

This is a privilege of the House and it is also a privilege of Parliament.

What I am saying is, if you cannot use the wide powers provided in clause 40, I do not want the government to use these powers to avoid presenting Parliament with appropriation bills or with bills for imposing any tax or impost. If we have to restrict the powers of the government, I want to be clear that this does not grant the government these powers.

Senator Olson: Honourable senators, I am having difficulty, because Senator Flynn says he does not want the government to use an emergency for the purpose of presenting an appropriation bill even to Parliament.

Senator Flynn: No, no, no!

Senator Olson: That is ridiculous.

Senator Flynn: Read clause 40.

The Chairman: It is proposed that the following words be added to the amendment we have already passed:

> "... nor for appropriating any part of the public revenue or for imposing any tax or impost."

Senator Flynn: How would the whole subclause read?

The Chairman: The new clause would read:

> "... to make orders and regulations may not be exercised for the purpose of requiring persons to serve in the Canadian Forces nor for appropriating any part of the public revenue or for imposing any tax or impost.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, there is much about Senator Flynn's proposed amendment that is highly attractive; however, I want to make two comments about his amendment.

We know that it is impossible for a government to appropriate by order in council—that is a parliamentary function.

However, we were told by the spokesmen of the government that they already have the power to withdraw money from the Consolidated Revenue Fund by Governor General's warrants. That is not appropriation. Therefore, as long as that provision remains there, the first part of Senator Flynn's proposed amendment does not accomplish anything. The government already can withdraw money from the Consolidated Revenue Fund under the provisions of another statute.

• (1640)

Senator Flynn: Sure, sure, but under the other statute; under this clause they would not.

Senator Stewart (Antigonish-Guysborough): That is correct. They said that they did not interpret this bill as conferring upon them the power to appropriate, and that they did not need to acquire new power because they already had power to obtain money under another statute.

Senator Flynn: In certain circumstances.

Senator Stewart (Antigonish-Guysborough): That is what they said in regard to my question on appropriation.

Now we come to the other point, namely, the imposition of a tax or impost. Senator Flynn here is disagreeing with the government. On May 31, at page 3531 of *Hansard*, the minister said:

> Finally, with regard to taxation, I am pleased to say that I can give a short, unequivocal answer. Taxes cannot be imposed by order in council. The Constitution sets out quite specific procedures for levying taxes and a bill is always required.

Hon. Senators: Hear, hear!

Senator Stewart (Antigonish-Guysborough): Consequently, the second part of Senator Flynn's proposed amendment runs contrary to the government's interpretation of the Constitution and, therefore, would seem to accomplish nothing. The minister is saying, "Even if we ask for this power, you could not give it to us, because this cannot be delegated." Consequently, to reduce the delegation in the way proposed by Senator Flynn, according to the minister, would be to reduce a delegation which had not been made in the first place. Therefore, from the viewpoint of the government, Senator Flynn's proposed amendment really would accomplish nothing.

The Chairman: Is there anything further?

Senator Flynn: I wanted you to change your mind, but you do not when it does not meet your purposes.

Senator Stewart (Antigonish-Guysborough): Senator Flynn, I happen to think that the minister probably is wrong and that you are right. All I am saying is that you are proposing—I suppose with the support of government senators—

Senator Flynn: No, no.

Senator Stewart (Antigonish-Guysborough): —an amendment which is contrary to the interpretation set forth by the minister speaking for the government.

[Senator Stewart (Antigonish-Guysborough).]

The Chairman: Is it your wish, honourable senators, to adopt the motion in amendment?

Senator Frith: The further one, no.

Some Hon. Senators: No.

The Chairman: I have not heard any "yeas".

Senator Flynn: Yea.

Senator Frith: Atta boy, Jacques! Not so fast!

The Chairman: In that case, shall we have a division by the same process?

Senator Roblin: You can call the result, Mr. Chairman.

The Chairman: You are satisfied that I call the result? In my opinion, then, the amendment does not carry. Is that agreed, honourable senators?

Hon. Senators: Agreed.

The Chairman: All right, shall clause 40, as amended, carry?

Hon. Senators: Carried.

The Chairman: Shall clause 41 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 42 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 43 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 44 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 45 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 46 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 47 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 48 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 49 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 50 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 51 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 52 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 53 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 54 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 55 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 56 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 57 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 58 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 59 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 60 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 61 carry?

Hon. Senators: Carried.

The Chairman: Clause 62?

Senator Stewart (Antigonish-Guysborough): Clause 62 provides for a Parliamentary Review Committee, the purpose of which is to examine what we might call secret orders in council, those which, in the national interest, would not be made public. This Parliamentary Review Committee is to be a committee of both houses of Parliament.

• (1650)

The clause, as it now reads, states:

> The Parliamentary Review Committee shall include at least one member from each party that has a recognized membership of twelve or more persons in the House of Commons.

There is no provision for party representation from the Senate.

Here is what might happen: Let us say that we had a Liberal government—

An Hon. Senator: Hear, hear!

Senator Stewart (Antigonish-Guysborough): That was the situation during the Second World War. Let us say a joint committee was to be set up. The joint committee would have to have at least one senator on it for it to be a joint committee. However, the Liberal majority in the Senate might well say, "That one senator will be a Liberal senator," with the result that there would be no Progressive Conservative senator on the joint committee. Therefore, it seems to me that it would be proper to eliminate that possibility by an amendment. Consequently, I move:

> That clause 62 of Bill C-77, on page 32, be amended by striking out lines 3 to 7 and substituting the following:
>
> (2) The Parliamentary Review Committee shall include at least one member of the House of Commons from each party that has a recognized membership of twelve or more persons in that House and at least one senator from each party in the Senate that is represented on the committee by a member of the House of Commons.

The effect would be that a joint committee set up with the present Senate would have at least one Progressive Conservative senator on it and at least one Liberal senator on it.

Let us say that we had in the Senate one member of the New Democratic Party. The Parliamentary Review Committee would have one member from the New Democratic Party from the House of Commons and one senator from the New Democratic Party. That senator would be eligible to sit on that committee as a representative of the Senate.

If, however, we had senators from parties that did not have at least 12 members in the House of Commons, those senators would not be eligible to sit on that committee.

The amendment is drawn so as to produce a balance between the representation of the parties in the House of Commons and the Senate on the Parliamentary Review Committee. I have reason to believe that this amendment might be acceptable to the government.

The Chairman: Honourable senators, it is moved by the Honourable Senator Stewart (Antigonish-Guysborough), seconded by the Honourable Senator Marsden:

> That clause 62 of Bill C-77, on page 32, be amended by striking out lines 3 to 7 and substituting the following:
>
> (2) The Parliamentary Review Committee shall include at least one member of the House of Commons from each party that has a recognized membership of twelve or more persons in that House and at least one senator from each party in the Senate that is represented on the committee by a member of the House of Commons.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Barootes: Mr. Chairman, the way Senator Stewart's amendment reads, if the New Democratic Party has no representatives in the Senate, bearing in mind that last line, we are in a bit of trouble, are we not, in assuming that every party in the House of Commons shall have a representative in the Senate? That is the way I read it.

Senator Stewart (Antigonish-Guysborough): It says "at least one senator from each party in the Senate", but that provision is limited by the words, "that is represented on the committee by a member of the House of Commons." It does not say that each party that is represented on the committee from the House of Commons shall be represented by a senator.

The Chairman: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Senators: Agreed.

The Chairman: Shall Clause 62, as amended, carry?

Hon. Senators: Carried.

The Chairman: Shall clause 63 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 64 carry?

Hon. Senators: Carried

The Chairman: Shall clause 65 carry?

Hon. Senators: Carried

The Chairman: Shall clause 66 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 67 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 68 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 69 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 70 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 71 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 72 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 73 carry?

Hon. Senators: Carried.

The Chairman Shall clause 74 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 75 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 76 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 77 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 78 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 79 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 80 carry?

Hon. Senators: Carried.

The Chairman: Shall the schedule carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall clause 1, the short title, carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill, as amended?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting is resumed.

REPORT OF COMMITTEE OF THE WHOLE ADOPTED

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which was referred Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof, has examined the said bill and has directed me to report the same to the Senate with two amendments.

A Clerk at the Table: The first amendment reads as follows:

That clause 40 of Bill C-77, on page 20, be amended by adding, immediately after subclause (1) thereof, the following subclause:

"(1.1) The power under subsection (1) to make orders and regulations may not be exercised for the purpose of requiring persons to serve in the Canadian Forces."

[*Translation*]

The second amendment reads as follows:

That clause 62 of Bill C-77, on page 32, be amended by striking out lines 3 to 7 and substituting the following:

"(2) The Parliamentary Review Committee shall include at least one member of the House of Commons from each party that has a recognized membership of twelve or more persons in that House and at least one senator from each party in the Senate that is represented on the committee by a member of the House of Commons."

[*English*]

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

Senator Molgat: With leave, now.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

THIRD READING

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

Hon. C. William Doody (Deputy Leader of the Government): With leave, now.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this time we are abridging the one day's notice requirement, but for another reason—because there is a chance that without other work for the Senate itself, apart from the committees, the Senate might not sit the rest of this week. So why not send it back to the House of Commons while we are not sitting?

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Roblin, with leave of the Senate and notwithstanding rule 45(1)(*b*), that this bill, as amended, be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill, as amended, read third time and passed.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Ian Sinclair: Honourable senators, notwithstanding the rules of the Senate, I would ask, notwithstanding the fact that the Senate is still sitting, that the Banking, Trade and Commerce Committee be empowered to meet now.

Hon. C. William Doody (Deputy Leader of the Government): I have no problem with that, honourable senators, provided we have a quorum for Royal Assent at 5:30 this afternoon.

Hon. Royce Frith (Deputy Leader of the Opposition): And that we can call on the members of the committee, if necessary, to be present.

Hon. Duff Roblin: As a member of the committee, I rather deprecate the fact that we are to meet when we should be here to lend our artistic verisimilitude to the ceremony of Royal Assent. I am going to be right here.

Senator Sinclair: Honourable senators, of course I am thoughtful of the views expressed so many times on the other side of the need to move forward expeditiously on matters that come before Senate committees. It is because of that and because of the input that I know honourable senators give, and in view of the time, that I suggest that we meet now so that their input will be available and they will not be rushing off to supper just when we want their input. Therefore, I ask honourable senators to give us the opportunity to meet now to consider the future work of the committee, and we will try to rush senators back if they feel that they have to be here.

Senator Roblin: My honourable friend wants to breach the rules of the Senate to do so. I do not think that is a good idea.

Senator Sinclair: If he does not want to expedite government business, and that is the position of the honourable senator, I guess we can take that into account. This is the second time. One other time, honourable senators, we were accused of giving only cursory attention to an important piece of legislation by a minister, supported by a member of the other side. Now we have another view. In light of that, we can use that at another time. If I cannot get consent, I cannot get consent.

The Hon. the Speaker: Do I gather that leave is not granted, honourable senators?

Senator Roblin: Honourable senators, I am not going to deny leave. That is not what I said and not what I intended, but I object to the proceeding.

The Hon. the Speaker: Do I gather, subject to Senator Roblin's reservations, that leave is granted, honourable senators?

Hon. Senators: Agreed.

NATIONAL TRANSPORTATION ACT, 1987

BILL TO AMEND—SECOND READING

Hon. Michel Cogger moved the second reading of Bill C-131, to amend the National Transportation Act, 1987.

He said: Honourable senators, I know that you have been waiting all afternoon to hear what I have to say about this bill. I will not take up too much of your time and I beg your patience. You can keep in mind that Her Majesty's representative will be here shortly, with all that that entails, and it may be some form of compensation for your patience.

[*Translation*]

Honourable senators, I welcome this opportunity to speak this afternoon to Bill C-131, which provides the means for ensuring that Canadians with disabilities are provided fair and dignified access to our national transportation system.

Bill C-131, an Act to amend the National Transportation Act, 1987, will give the National Transportation Agency the power to regulate accessibility for disabled persons to all transportation services and facilities under federal jurisdiction.

This will expand on a power that the agency now has to regulate accessibility for the carriage of disabled persons on airlines.

As a result of the amendments, the agency will be able to prescribe regulations for the purpose of eliminating undue obstacles in transportation to the mobility of disabled persons. By regulation, the agency will be able to establish standards:

First, for the design, construction, and modification of means of transportation and related facilities, premises and equipment;

Second, respecting the use of signs;

Third, for the training of staff;

Fourth, respecting terms and conditions for carrying disabled persons;

And finally, respecting the communication of information to disabled persons.

The amendments will make any infringement of the standards or regulations an offence.

I would also point out that the amendments will require the National Transportation Agency and the Canadian Human Rights Commission to co-ordinate their activities in relation to the transportation of disabled persons. Both these agencies have been consulted on these amendments.

Improved access to our national transportation network will provide disabled persons with broader access to housing, education and employment and generally provide a better quality of life for a larger number of Canadians.

The views of the disabled were considered when these amendments were drafted. The disabled expressed those views when they appeared before the Standing Committee on Transport and Communications when it reviewed Bill C-18 and also when they were asked to make representations to John Crosbie, then Minister of Transport and Monique Vézina, the Minister of State for Transport at the time. Their expectations were made known through the Minister's advisory committee, that is, the Transportation of Disabled Persons Implementation Committee. The amendments contained in Bill C-131 seem to respond to at least part of their expectations.

The airlines, the railways and bus companies were consulted by the Transportation of Disabled Persons Committee.

Finally, honourable senators, I would urge you to approve this bill as quickly as possible. When it comes into force, it will provide the framework for a policy on standards for transportation services and facilities accessible to all disabled Canadians.

● (1710)

[*English*]

Hon. Lorna Marsden: Honourable senators, Senator Cogger has described very well the effect of this bill, and I would like to thank him for providing to me extensive background material on it. I checked with the various organizations with which the government has consulted—COPO, ARCH and PUSH—and, indeed, with Ms. Eileen Barbeau, who is with Services for the Disabled at the University of Toronto. They have all agreed that this bill should go through as soon as possible—a view that we on this side also take.

The enormity of the problems faced by people with disabilities in this country is known, I hope, to all honourable senators. I think the statistical evidence on the circumstances of people with disabilities, young and old, is only now becoming known, especially for those people who are not institutionalized. Certainly, this evidence came to the attention of the Special Senate Committee on Youth when students from the City of Ottawa told us that they could not get to their classes on time because public transportation ran too late in the mornings to be of any help to them. This bill will help, in part, to redress that situation, and therefore we are in favour of it.

Honourable senators, I do not propose to describe at length all of the consequences for Canadians with disabilities, but I should like to draw to the attention of the Senate an article by Rick Csiernik from the Social Planning and Research Council of Hamilton and District, which appeared in the March-April, 1988 issue of the *Canadian Journal of Public Health*, in which he has analyzed the problems faced by non-institutionalized disabled adults and the social services available—or, more often, not available—to them. I recommend it to senators; it says everything much more clearly than I could.

This bill is clearly a small, positive move in the right direction to help people in these circumstances. I have only one comment to make, in addition to those which Senator Cogger has made, and that is this: This bill refers to the National Transportation Agency, established through Bill C-18, which passed the House of Commons a year ago. There are nine members of the agency, one appointed from each region of Canada, and I am told that among those nine there is not one, single person with a disability or close to an organization for people with disabilities. I should like the government to consider section 8 of that act, which allows the government to add temporary members—no more than six—to the agency. I ask the government to consider appointing such temporary members from among people with disabilities, who make the case very compellingly, in my view, that they have direct experience and knowledge that is not widely known or shared. From that experience and knowledge the National Transportation Agency, which has taken up this issue as one of its major concerns, could benefit greatly.

Honourable senators, we support the second reading of this bill.

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?

On motion of Senator Cogger, bill referred to the Standing Senate Committee on Transport and Communications.

IMMIGRATION ACT, 1976

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Bosa, seconded by the Honourable Senator McElman, for the second reading of the Bill S-18, An Act to amend the Immigration Act, 1976.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have nothing to say on this bill. If Senator Bosa wishes to proceed with it, he can by all means do so.

Hon. Peter Bosa: Honourable senators—

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

Senator Bosa: Honourable senators, I just want to make a few brief remarks in response to some comments made by Senator Hicks and Senator Gigantès during the debate on second reading. Senator Hicks said, most emphatically at page 3688 of the *Debates of the Senate* of June 16, 1988:

> . . . I do not believe in a policy of multiculturalism.

Later on, he went on to say:

> I think that people who have elected to come here from many other parts of the world should want to be Canadians. Certainly, their background and heritage will have something to do with and enhance the contributions they make to Canada.

Senator Gigantès, on the next page, is reported to have said:

> To exist, culture has to have freedom to mingle, and one of the most wonderful things about Canada is the freedom for various cultures to mingle. When asked, I say to Greek groups that I personally am opposed to multiculturalism. I have taken this conviction so far as not to teach my children Greek. I want them to know French and English and, if they have time, to learn other languages of their choice, but while they are small and I am responsible for their education I want them to know the two main cultures and languages of Canada.

● (1720)

Honourable senators, there are many misconceptions and misunderstandings about the policy of multiculturalism. The policy of multiculturalism was announced by the Right Honourable Pierre Elliott Trudeau on November 6, 1971, in the House of Commons, and it was in response to a recommendation that had been made in the fourth report of the Bilingual and Bicultural Commission tabled in the other place in 1968.

Thousands of people have been developing and promoting the policy of multiculturalism. It is obvious we have not done a very thorough job, because there are millions of Canadians who do not understand the policy of multiculturalism.

To take this concept one step further, perhaps some people have a vision of Canada in which multiculturalism does not tally with what they would like Canada to be. To recognize that the composition of Canadian society is made up of a multitude of minority groups and ethnic groups is to recognize a reality. Canada is not a homogeneous society and Canada does not have an official culture.

The policy of multiculturalism gives equal status to all cultures. All individuals who understand this policy have a feeling of comfort that they are part of Canadian society. It is this feeling of equality that enables millions of Canadians, notwithstanding what some people say, to shout with pride and conviction, "I am a Canadian." This is the basic concept and object of the policy of multiculturalism.

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?

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

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

28 June 1988

Sir,

I have the honour to inform you that the Honourable Gerald Eric Le Dain, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 28th day of June, 1988, at 5.25 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as far as I know, all remaining orders stand.

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

Hon. Senators: Agreed.

SCRUTINY OF REGULATIONS

TENTH REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Reports of Committees:

Hon. Nathan Nurgitz: Honourable senators, I have the honour to present the tenth report of the Standing Joint Committee for the Scrutiny of Regulations respecting statutory instruments made by certain statutory courts.

(*For text of report, see Appendix "C", p. 3788.*)

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

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

BUSINESS OF THE SENATE

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to talk about next week's business. When the Senate adjourns today, it is our intention that it do stand adjourned until Tuesday next, July 5, 1988. At that time we expect that some legislation will be here from the other place.

I should say at this point that we do have a number of committee meetings scheduled for this week which will not be cancelled or postponed. The Internal Economy Committee will meet on Thursday morning; the Finance Committee is considering the ACOA bill on Thursday morning; the Transport Committee is meeting at least once this week to deal with Bill C-105, and another bill has now been referred to it as well. There are undoubtedly other committees which I do not know about at the moment.

Honourable senators, with leave of the Senate and nothwithstanding rule 45(1)(*g*) I move:

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, July 5, 1988, at 2 o'clock in the afternoon.

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

Hon. Senators: Agreed.

The Senate adjourned during pleasure.

• (1730)

At 5.45 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Gerald Eric Le Dain, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy 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 Acting Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

> An Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products (*Bill C-51, Chapter 20, 1988*).
>
> An Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising (*Bill C-204, Chapter 21, 1988*).
>
> An act respecting the protection of the environment and of human life and health (*Bill C-74, Chapter 22, 1988*).
>
> An Act to amend the Indian Act (designated lands) (*Bill C-115, Chapter 23, 1988*).
>
> An Act to amend the Customs Tariff (code 9956) (*Bill C-135, Chapter 24, 1988*).

The Honourable Steven Paproski, Acting Speaker of the House of Commons, then addressed the Honourable the Deputy Governor General as follows:

> May it please Your Honour:
>
> The Commons of Canada have voted supplies required to enable the Government to defray certain expenses of the public service:
>
> In the name of the Commons, I present to Your Honour the following bill:
>
> An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1989 (*Bill C-138, Chapter 25, 1988*).
>
> To which bill I humbly request Your Honour's assent.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, July 5, 1988, at 2 p.m.

APPENDIX "A"
(*See p. 3751*)

ADDRESS

of

THE RIGHT HONOURABLE MARGARET THATCHER

Prime Minister of the United Kingdom of Great Britain and Northern Ireland

to

Both Houses of Parliament

in the

HOUSE OF COMMONS CHAMBER, OTTAWA

on

Wednesday, June 22, 1988

ADDRESS
of
THE RIGHT HONOURABLE MARGARET THATCHER
Prime Minister of the United Kingdom of Great Britain and Northern Ireland
to
Both Houses of Parliament
in the
HOUSE OF COMMONS CHAMBER, OTTAWA
on
Wednesday, June 22, 1988

The Prime Minister was welcomed by the Right Honourable Brian Mulroney, Prime Minister of Canada, and thanked by the Honourable Guy Charbonneau, Speaker of the Senate, and the Honourable John A. Fraser, Speaker of the House of Commons.

Hon. John A. Fraser (Speaker of the House of Commons): The Right Honourable the Prime Minister.

Some Hon. Members: Hear, hear!

Right Hon. Brian Mulroney (Prime Minister): Mr. Speaker of the Senate, Mr. Speaker of the House, chers collègues, chers amis:

Today we welcome to our midst the Prime Minister of one of our mother countries, the Leader of the Mother of Parliaments and a truly outstanding spokesperson for the western world—the Right Honourable Margaret Thatcher, Prime Minister of Great Britain.

Some Hon. Members: Hear, hear!

Mr. Mulroney: We salute you, Prime Minister, as you can see, as warmly as we welcome you. The mother country has bequeathed to us an enduring tradition of British common law and our valued British cultural heritage. The Mother of Parliaments is the foundation upon which we have built our own parliamentary democracy here in Canada. We have adopted or adapted most of the customs of Westminster in the daily life of our own Parliament, with a few notable exceptions.

At Westminster, the Prime Minister is expected to attend Question Time twice a week, and the questions are submitted in advance, in writing.

Some Hon. Members: Oh, oh!

Mr. Mulroney: As I have always said, Prime Minister, there is much to be admired in British parliamentary democracy—

Some Hon. Members: Oh, oh!

Mr. Mulroney: —and I hope that we can initiate such a reform here in Canada, perhaps as early as this afternoon.

Some Hon. Members: Oh, oh!

Mr. Mulroney: Prime Minister, you are no stranger to this House, having addressed a joint session five years ago. Today, you become the first British Prime Minister to address Parliament on two occasions. Historians will note that your first address followed your re-election in 1983 and that your second follows your re-election in 1987. If you, in that memorable turn of phrase, "go on and on", we expect to see you back here about 1992.

Some Hon. Members: Hear, hear!

Mr. Mulroney: As the senior statesperson of the western world, Mrs. Thatcher commands respect everywhere for her strength of character, force of ideas, and of course political durability.

[*Translation*]

She is the first British Prime Minister to win three consecutive mandates in a century and a half and, believe me, Prime Minister, that is something everyone in this Chamber understands, respects and envies.

By the end of her present term, she will have governed Britain in three decades, the 70s, the 80s and the 90s.

• (1110)

[*English*]

Mrs. Thatcher has personally presided over the transformation of Britain from a nation that lagged to a nation that leads.

Britain is back as a world economic power, as a motor of economic growth, as a model of economic development, and every person in this country and in this House knows that the responsibility for that magnificent achievement is here in the person of Margaret Thatcher.

Some Hon. Members: Hear, hear!

Mr. Mulroney: On the world scene, I can testify first hand to her strong and persuasive leadership. She has just come from Toronto and her tenth Economic Summit. At Toronto, we sought to return to some of the informality and spontaneity of earlier summits. To the extent that we were able to do so, and to keep the focus primarily on economic issues, Margaret Thatcher played a genuinely impressive role, and I thank her for that.

The Prime Minister has also struck a balance between a determination to provide for security and a deep yearning for peace.

As you said, Prime Minister, in your previous address to this House, "our desire for disarmament is profound, but it is matched by an unshakable resolve that our way of life shall be secure".

In NATO, she has stood at all times for the solidarity of the alliance and has strengthened her nation's contribution to the collective security of the West.

Some Hon. Members: Hear, hear!

Mr. Mulroney: But equally, Mrs. Thatcher was the first western leader to recognize the possibilities of change and reform in the Soviet Union. It was she, even before the change of course in the Soviet Union, who pointed out that Mr. Gorbachev was "a man we can do business with".

Between Canada and the United Kingdom there is, of course, a special relationship. The ties that bind us stretch across an ocean and reach across the generations.

The United Kingdom is now our third largest trading partner, with two-way trade in excess of $7 billion last year. Canadian exports to the U.K. rose by 5 per cent last year to $2.8 billion, representing nearly one-third of all of our exports to the European Community. Canada, with less than 1 per cent of the world's population, accounts for nearly 5 per cent of the world's trade.

[*Translation*]

Not surprisingly then, we are ardent proponents of trade liberalization.

As you know, Prime Minister, we have concluded a free trade agreement between Canada and the United States, the world's two largest trading partners, which we believe will give powerful impetus to the multilateral talks now under way in Geneva.

[*English*]

We are working very hard, and Mrs. Thatcher is providing great leadership, for reform in the area of agricultural subsidies. I am pleased with the clear signal of will which emerges from our deliberations in Toronto on this vital topic.

Of course, we maintain our familial and our very affectionate ties with Britain through the Commonwealth, and we strengthen them through the other multilateral institutions to which we bring a common heritage and in which we make common cause.

Prime Minister, we admire you as one of the world's most inspiring leaders. Your career has been one of confronting great challenge and difficulty and emerging with skill and resolve on a new plateau of accomplishment. You have stood firmly for freedom. You have fought hard for democracy. You have earned our genuine respect.

Colleagues, chers amis, I present to you a true friend of Canada, The Prime Minister of Great Britain, The Right Honourable Margaret Thatcher.

Some Hon. Members: Hear, hear!

Right Hon. Margaret Thatcher (Prime Minister of the United Kingdom of Great Britain and Northern Ireland): Mr. Speaker of the Senate, Mr. Speaker, Prime Minister, honourable members of the Senate, members of the House of Commons:

[*Translation*]

First of all I would like to thank you for the great privilege and honour of being invited to speak before you a second time. Longevity has its advantages—

Some Hon. Members: Hear, hear!

Right Hon. Margaret Thatcher: I also want to take this opportunity to thank you and the Canadian people for the truly exceptional welcome extended to me and to the many foreign visitors who have come to your country in the past twelve months.

[*English*]

It has indeed been an extraordinary year in which world leaders, sportsmen, businessmen, and many others have flocked to Canada—the Francophone Summit, the Commonwealth Heads of Government Meeting, the Economic Summit, and the Winter Olympics. The British team may not have returned with any gold medals, but I think we can claim to have been represented by the most famous competitor.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: All this is a tribute to Canada's success and to the high regard in which your country is held world-wide and most especially within the Commonwealth.

A Canadian Prime Minister at the turn of the century predicted that "the 20th century would be the century of Canada". The last 12 months have certainly shown his prophecy to be true.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: I should like to pay a particular tribute to the skilful and creative chairmanship of those meetings by your Prime Minister, Brian Mulroney, most recently at the highly successful Economic Summit. Few have the privilege of feeling that they have moved the world's fortunes a step forward. He has done so and deserves our thanks and congratulations.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: Mr. Speaker, our two countries are metaphorically, and often literally, members of the same family. Like a family, we have experiences in common that go back to our beginnings. A Canadian rode at Balaclava in the charge of the Light Brigade. Canadian boatmen ferried British soldiers down the Nile in their attempt to rescue General Gordon at Khartoum a century ago. It was an engineer from Québec, Sir Percy Girouard, who built the railway that was so valuable in opening up the Sudan.

Above all, we remember together our war dead by wearing poppies every November because a Canadian soldier, Major John McCrae, wrote the poem *In Flanders Fields* in the early morning of the 3rd of May, 1915, while the first battle of Ypres was raging.

Forty-three years after VE Day, we honour the valour and sacrifice of Canadian fighting men in two world wars. That is something which we in Britain will never forget, a debt that can never be repaid. So too is the enormously generous help which you gave Britain in the post-war years.

Four Canadian Prime Ministers, including Sir John A. Macdonald, were born in Britain, and the only British Prime Minister born overseas came from New Brunswick.

We are delighted that today Canada's involvement in our national life is as strong as ever. There are no less than 160 Canadian firms active in the United Kingdom, with nine banks and thirteen security houses. Individual Canadians—Paul Reichmann, Conrad Black, Graham Day—are making a great contribution. Most exciting of all is the major Canadian investment in Canary Wharf, the remarkable architectural and commercial renaissance of London's docklands.

Last month, I opened the construction phase myself by sinking the first concrete pile—

Some Hon. Members: Oh, oh!

Mrs. Thatcher: —with a little help from a pile-driver.

Some Hon. Members: Oh, oh!

Mrs. Thatcher: When it is complete, it will be the largest commercial development in Europe. We welcome the confidence and the commitment on the part of Canadian enterprise which it represents.

• (1120)

Mr. Speaker, one of the advantages of being among family is that we can compare ailments. Some years ago, we in Britain invented a disease. Its symptoms were a combination of stagnation, inflation, financial problems, labour troubles, and loss of confidence. They called it "the British disease".

A Canadian commentator, Goldwin Smith, provided an excellent clinical definition of the malady nearly a hundred years ago. He spoke of countries that were "rich by nature, poor by policy". Today, many of us in the developed world realize that in varying degrees we have quite needlessly been "poor by policy".

We have come a long way since the days when people thought that you could spend and borrow your way to prosperity, that you needed a budget deficit and a bit of inflation to get economic growth.

Now it is understood that the government's role is to keep downward pressure on inflation and to create a sound financial and legal framework in which enterprise can flourish.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: We have learned that it is not governments that create wealth, but people, provided we have policies that encourage them to do it.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: We have also got away from the debilitating concept of the all-powerful state which takes too much from you to do too much for you, constantly substituting the politicians' view of what the people should have for the people's own view of what they want.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: We have had our own *perestroika*. As a result the economy has been growing steadily for seven years, soon to be eight, there are more resources available for the community's needs, and we have a budget surplus with which to repay debt.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: Mr. Speaker, you can never do that except by first restoring the spirit of the people. The great economists of the past knew this. Adam Smith was not a professor of economics. He was a professor of moral philosophy. He understood how to work with the grain of human nature. He knew the heights which it could reach, which is why his policies for creating the Wealth of Nations will endure throughout the years.

Today you can feel the pride and confidence both in Britain and in Canada. Both our countries have learned that lesson. As a result we have achieved remarkable economic success, and today we jostle for the top place in the OECD's growth stakes.

Among the Economic Summit seven countries, sound money, lower taxes, and freedom for enterprise are now common form. It was not always so; but every year since the second cycle of summits started in 1982 the Heads of Government have committed themselves to those policies as the best basis for stable and long-term growth.

We have put behind us the financial irresponsibility which made the 1970s a decade of missed opportunity. I do not believe that the world could have withstood the shock of last autumn's fall in stock prices so well if our policies had not been built on sure foundations. We have established a new orthodoxy.

Low inflation and prudent financial policies need to be supported by open markets and flourishing world trade. Here too the Toronto Summit took important steps forward. We committed ourselves to the success of the GATT-round trade negotiations and encouraged measures to free up world trade.

Mr. Speaker, by 1992 every firm in Europe, whether engaged in manufacturing or in services, will have a single market of 320 million people. What a dramatic development that is going to be! To add to it, the Channel Tunnel will give Britain for the first time in our history a land border with Europe.

There will be new opportunities of every kind, not just for member countries of the European Community themselves but for those countries which trade with the Community.

Let me reassure you: it is not Britain's intention when removing barriers within Europe to see them raised against our other trading partners outside Europe.

Canada and the United States are pointing the way with a Canada-United States Free Trade Agreement which the Economic Summit warmly endorsed.

Some Hon. Members: Hear, hear!

Some Hon. Members: Oh, oh!

Mrs. Thatcher: I understand that it may be a controversial matter in this Chamber. I will only say that I do not underestimate Canada's courage in taking this step in partnership with its giant neighbour. On the basis of Britain's experience of joining the European Community, you need have no fear that Canada's national personality will be in any way diminished. Fifteen years of European Community membership have left our people no less British and no less proud of their history and independence. Moreover, protectionism is not a life-belt which keeps an economy afloat. It is a millstone that drags you down and penalizes consumers and workforce alike. Subsidize the inefficient and soon that is all you have; you lose the competitive edge to export abroad and keep prices down at home.

There is another major world problem which we committed ourselves to deal with at the Summit. Agriculture will have to bring supply and demand more into balance. Until we do that, farmers will not feel secure in their future.

Look at the situation now. Countries compete with each other to give bigger and bigger subsidies. Farmers in Japan are being paid eight times the world price for rice. In the United States, in 1986, one single state received more loans and other aid from Washington than all the nations in Africa got from the World Bank. In Europe, the subsidy per cow is greater than the personal income of half the world's people.

• (1130)

Even Canada is not a model of absolute virtue, though may I take this opportunity to express my sympathy for the plight of your farmers who are suffering so badly from drought.

Abba Eban once said: "History teaches us that men and nations behave wisely once they have exhausted all other alternatives". Well, with agriculture we have exhausted all other alternatives. In Europe we have made a start in cutting back surpluses and reducing stockpiles, in some cases with dramatic results.

At Toronto we all recognized that setting realistic goals for reducing subsidies on a fair basis in all our countries offered a way forward, a way forward which will offer a surer future for our farmers, a better deal for our consumers, and hope for the Third World countries whose markets are unfairly saturated by the sale of our subsidized surpluses.

Mr. Speaker, here in this Chamber we are all privileged to be active in government and politics at a time of unprecedented hope and opportunity in relations between East and West. President Reagan's recent Summit meeting in Moscow with Mr. Gorbachev was an historic success. A new chapter in East-West relations has been opened.

We owe that to President Reagan because of his firmness and the way he has stuck resolutely to his convictions and beliefs. We owe it also to Mr. Gorbachev who, with a rare insight, has seen that communism has not been able to deliver the standard of living, of social services, of technological advance which its originators promised.

He has had the vision and resolve to embark on a course which, by mobilizing great personal responsibility and initiative, will bring greater benefits. It is not going to be an easy path for the Soviet Union and its allies in Eastern Europe. Those who engage in great endeavours never find the going easy, but it is in our interests as well as those of the Soviet people that he reach his goal.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: Every enlargement of liberty serves the interests of all mankind. The foundations of this new hope in East-West relations were not laid in recent months. They were built up over the last four decades by the resolve of the Governments and peoples at the heart of the western world—the United States, Britain, and Canada pre-eminent among them—to defend liberty, justice, and democracy however heavy the burden and whatever the price.

Now we are beginning to reap the rewards: the Agreement to reduce Intermediate Nuclear Forces and the Soviet withdrawal from Afghanistan. Who would have thought, five years ago when I last spoke in this Chamber, that either of these things would come about?

The more hopeful signs from the Soviet Union are bound to raise questions in people's minds: Can't we take a chance? Do we need to go on with the present level of spending on defence? Hasn't the time come when we can relax our guard? Mr. Speaker, nothing could be more dangerous.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: First, we cannot base our defence on hope, only on reality, and the reality is that Soviet military spending continues to grow and their weapons systems are being constantly modernized and updated in every field. Their forces are far in excess of what they need for defensive purposes alone.

Second, we do not know whether Mr. Gorbachev will succeed in his new policies. Old ways die hard and there is still little evidence that the Soviet Union's long-term foreign policy

objectives have changed. We can hope for the best, but a prudent defence must plan for the worst case.

Third, modern weapons are so sophisticated that they take many years to plan and to produce. A mistake or miscalculation now could leave us vulnerable and unprotected at a time when our potential enemies are continuing to increase their military strength.

Fourth, we are in a position to welcome the changes taking place in the Soviet Union because we know that whatever happens our defence is sure.

For nearly 40 years that remarkable organization, NATO, has kept the peace. It has done so because everyone knew that an attack on one member would be an attack on all and we would respond accordingly and because we have had an effective mix of nuclear and conventional weapons and kept them up to date.

I pay particular tribute to Canada's contribution to NATO's strength and success by the way in which she welcomes our troops to train and exercise; by the resolute manner in which she agreed to test Cruise missiles over her territory, a demonstration of resolve which was crucial at that time; and by her intention to modernize her Navy by acquiring nuclear powered submarines—we very much hope, from Britain.

Some Hon. Members: Oh, oh!

Mrs. Thatcher: They are quite the best, and Canada must have the best.

Mr. Speaker, wars are not caused by strength or by armaments. They happen when nations are weak in the face of others who are both ambitious and strong.

Our duty is to preserve NATO's strength by constantly updating our weapons, both nuclear and conventional; by maintaining, as you do, highly professional and trained armed forces; and by demonstrating our united resolve.

Peace with freedom and justice is the most precious thing we have, both for our generation and for our children. That is the trust they place in us and we must not fail them.

Mr. Speaker, we always remember what lies at the very root of the differences between the Soviet system and the free world. It is a fundamentally different view of the role of the individual and his rights in society.

History has not equipped the Russian people with the capacity to escape easily from the incubus of state socialism. They know nothing of personal liberty, have never experienced an independent judiciary, and are strangers to tolerance and the checks and balances which operate in a free society.

People used to believe that dictatorships had the advantage of being more efficient and better able to act decisively than the democracies. They were wrong. Now they understand that you cannot plan and regulate everything, and that if you try you lose the driving force of human nature and its inventiveness and creativity.

In modern societies success depends on openness, on free discussion, and on easy access to information. We in the West could never have experienced the great surge of technological advance without them. Once you try to suppress and restrain them, then not only are you unable to change, you are unable to respond to change.

Mr. Speaker, the example of what freedom has achieved in the open societies of the West is a powerful incentive to the closed societies of the Eastern bloc to extend it to their people and to accept restraints on the power of those who rule, but the case for freedom can never be merely a material one. It is a moral crusade.

The communist societies still see human rights as something given by the state, which can be taken away by the state. For us, they are something so fundamental that they cannot be given or taken away by any government or human agency.

Some Hon. Members: Hear, hear!

Mrs. Thatcher: Those who would have us believe that speaking out about human rights runs counter to the aim of better relations play into the hands of the enemies of freedom.

As President Reagan recently said in an inspired speech in London's Guildhall immediately after the Moscow Summit: "When free peoples cease telling the truth about and to their adversaries, they cease telling the truth to themselves. In matters of state, unless the truth be spoken, it ceases to exist".

Mr. Speaker, freedom is on the offensive as never before, a peaceful offensive pursued by example and by persuasion. Its triumph is our highest ambition.

• (1140)

In taking his leave of you in 1952, Winston Churchill did not say goodbye. Rather, he said:

[*Translation*]

"Goodbye, my Canadian friends. Tomorrow a splendid future awaits you."

[*English*]

It is indeed a splendid future that awaits Canada, one filled with opportunity and pride. I know that Britain and Canada will walk that road together, unswerving in our purpose, strong in our joint defence, and firm in our abiding friendship.

Some Hon. Members: Hear, hear!

[*Translation*]

Hon. Guy Charbonneau (Speaker of the Senate): Prime Minister, the Parliament of Canada takes pride in having you as one of its illustrious guests. We are delighted with the decision to welcome you every five years, until the end of this century. You will go down in history with Robert Walpole and his twenty-two tenacious years, and especially William Pitt,

who in 1783 decided to hold the reins of power until the beginning of the next century. Typically, contemporary political historians always try to compare you with your illustrious predecessors, two of whom I have just mentioned, and I may also include Disraeli. After listening very attentively to your speech, we understand the reason for these flattering comparisons.

[*English*]

In greeting you today, Prime Minister, we have been mindful not only of the fact that you are Britain's first woman Prime Minister—and we applaud this—but also of the remarkable place you have carved for yourself in the history of British Prime Ministers. The characteristics which have contributed to your success are legendary. Conviction, tenacity, firmness: in the shifting winds of political fortune, these are the ballast that leaders must carry with them, and when they are combined with vision, patience, and an inexhaustible capacity for hard work, one can expect that the ship of state will sail forward.

Your success in putting your country back on the road to prosperity is so evident that your name is always invoked in every discussion of international affairs and economics. Many debaters, not knowing whether they should refer to England or to Great Britain or to the United Kingdom, take a short cut and say quite simply "Thatcherland".

The world knows that you are a leader of determination and that very often you discard consensus politics. In that, you remind us of our Prime Minister, Sir Wilfrid Laurier, counting the votes in his Cabinet and saying: "Thirteen against my proposition, one for; the yeas have it".

A century ago, Oscar Wilde, in his humourous way, dared to write: "The Lords Temporal say nothing; the Lords Spiritual have nothing to say; and the House of Commons has nothing to say and says it". Had he been living today, he might have added: The Prime Minister has something to say and says it.

Some Hon. Members: Hear, hear!

Senator Charbonneau: Madam Prime Minister, on behalf of my colleagues in the Senate of Canada, I wish to thank you for honouring us with your presence today.

[*Translation*]

It was indeed an honour and a privilege to hear you, as a distinguished representative of the Mother of Parliaments, address the Parliament of Canada, and we are most grateful.

Some Hon. Members: Hear, hear!

[*English*]

Mr. Speaker: Madam Prime Minister, let me add my own words of appreciation, on behalf of all Members of the House of Commons, and to thank you for your eloquent words and the message you have left with us.

The rare assemblies of both Houses of our Parliament, such as this, are reserved for very special and honoured guests. You, Madam Prime Minister, are among the foremost of them.

Some Hon. Members: Hear, hear!

Mr. Speaker: Indeed, as has been remarked, this is your second address to us in five years—a mark, surely, of the mutual interests and good will that exists between our two countries.

[*Translation*]

Thank you, Prime Minister, for having given us this opportunity to further strengthen the ties of friendship that exist between Canada and the United Kingdom.

[*English*]

It is not every day that we are privileged to listen in this Chamber to one of the longest serving leaders in the democratic world. You have given us much to reflect upon.

I believe I speak on behalf of all members of the House when I say that one of the continuing benefits of these high level exchanges is to reinforce the positive aspects of international relations between our two countries, and to give a political impetus to resolving those irritants that may arise in any complex relationship.

It would be appropriate to remind ourselves that our Members of Parliament and yours are meeting constantly in the closest and most effective relationship.

[*Translation*]

Prime Minister, you are among friends.

[*English*]

In closing, may I say that we look forward to further dialogue and the continuation of vibrant relations between our two nations. The warm association which binds us is a precious asset not only for today but also for the challenging world which our children will inherit. You are among friends. We wish you to come again. God bless you.

Some Hon. Members: Hear, hear!

APPENDIX "B"

(*See p. 3759*)

APPROPRIATION BILL NO. 2, 1988-89

ESTIMATES TABLED TO DATE FOR 1988-89

	TO BE VOTED	STATUTORY	TOTAL
	(in thousands of dollars)		
Main Estimates			
Budgetary	$40,878,458	$78,487,471	$119,365,929
Non-Budgetary	120,585	10,898	131,483
	$40,999,043	$78,498,369	$119,497,412
Supplementary Estimates (A)			
Budgetary	$ 113,900	-	$ 113,900
Non-Budgetary	-	-	$ -
	$ 113,900	-	$ 113,900
TOTAL ESTIMATES TABLED			
Budgetary	$40,992,358	$78,487,471	$119,479,829
Non-Budgetary	$ 120,585	$ 10,898	$ 131,483
	$41,112,943	$78,498,369	$119,611,312

SUPPLY TO DATE FOR 1988-89

One Appropriation Act has been approved in respect of Estimates for 1988-89:

Supply Approved to Date:

Appropriation Act No. 1, 1988-89 which granted Interim Supply for April, May and June including 33 additional proportions, based on the Main Estimates for 1988-89	$11,452,962,802.07

Awaiting Approval:

Appropriation Act No. 2, 1988-89

Supply for the balance of Main Estimates for 1988-89	$29,546,081,040.93
The whole of Supplementary Estimates (A), 1988-89	$ 113,900,000.00
TOTAL	$41,112,943,843.00

APPENDIX "C"

(*See p. 3777*)

SCRUTINY OF REGULATIONS

TENTH REPORT OF STANDING JOINT COMMITTEE

TUESDAY, June 28, 1988

The Standing Joint Committee for the Scrutiny of Regulations has the honour to present its

TENTH REPORT
(Report No. 44)

Pursuant to the Order of Reference approved by the Senate on November 27, 1986 and by the House of Commons on December 17, 1986, and to its permanent reference, section 26 of the *Statutory Instruments Act*, S.C. 1970-71-72, c. 38, the Joint Committee wishes to inform both Houses of its decision not to review and scrutinize the statutory instruments made by certain statutory courts.

At present, the *Statutory Instruments Act* applies to "a rule, order or regulation governing the practice and procedure in proceedings before a judicial or quasi-judicial body established by or under an Act of Parliament" (S.C. 1970-71-72, c. 38, s. 2(1)(d)(iv)). Any such rule, order or regulation is subject to the requirements of the Act respecting the examination, registration and publication of regulations and to review and scrutiny by the Joint Committee on behalf of the Houses. Your Committee has given consideration to the propriety of subjecting the rules made by statutory courts to the control of Parliament. It appears to us that in many instances, these courts are intended by Parliament to enjoy the same degree of independence as that which the *Constitution Act, 1867* guarantees to superior courts. Parliamentary control of the delegated legislation adopted by these courts is not entirely consistent with the principle of the independence of the judiciary.

In determining which procedural rules should be exempt from scrutiny, the Joint Committee believes that the most reliable criterion is the nature of the tenure enjoyed by the members of a particular court. A distinguishing characteristic of those courts to which Parliament wishes to give the same degree of independence as that guaranteed to the superior courts by the Constitution is that their members hold office "during good behaviour". The importance of this criterion is explained by one authority as follows:

> "Judges are in one important respect different from all other public officials. Generally speaking, public officials are accountable for their acts both politically and legally. The fact that judges hold office during good behaviour means in effect that they cannot be removed except for misbehaviour, so that political accountability, [...] does not apply to them." (J.R. Mallory, *The Structure of Canadian Government*, 2nd ed., p. 318)

Tenure during good behaviour, meant to guarantee the independence of the judiciary, also has consequences for parliamentary control of delegated legislation. If the members of statutory courts are not accountable for the exercise of their jurisdiction, your Committee does not consider they ought to be accountable to the Houses for the exercise of the rule-making powers delegated to them by Parliament. Admittedly, the making of rules of practice and procedure is a legislative rather than a judicial function. However, the Joint Committee believes this legislative function to be so closely connected to the exercise of their jurisdiction that in exercising it, judges are entitled to the same independence as they enjoy with respect to the exercise of their judicial function.

These considerations have led the Committee to its decision not to scrutinize the procedural rules made by certain courts, such as the Supreme Court of Canada or the Tax Court of Canada. On the other hand, the Joint Committee will continue to review and scrutinize the rules of practice and procedure made by tribunals whose members are not appointed during good behaviour including, for example, those made by the National Transportation Agency or the Canada Labour Relations Board.

Respectfully submitted,

NATHAN NURGITZ

Joint Chairman

THE SENATE

Tuesday, July 5, 1988

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

Prayers.

NATIONAL HOUSING ACT
CANADA MORTGAGE AND HOUSING CORPORATION 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-111, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to repeal certain enactments in consequence thereof.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, July 7, 1988.

[*Translation*]

CANADA AGRICULTURAL PRODUCTS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-141, an Act to regulate the marketing of agricultural products in import, export and interprovincial trade and to provide for national standards and grades of agricultural products, for their inspection and grading, for the registration of establishments and for standards governing establishments.

Bill read first time.

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

On motion of Senator Doody, notwithstanding rule 45(1)(*f*), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[*English*]

PRIVILEGE

Hon. Hazen Argue: Honourable senators, I rise on a question of privilege. I wish to make a statement, following accusations by the *Ottawa Citizen* that materials, taxis, telephones and personal mails have been used by my office in support of my wife's campaign for the Liberal nomination, and all of this in an improper manner. I want to refer particularly to the matter of seven people who had been hired to make telephone calls, and the allegation that it was only after Mr. Jarvis had demanded payment that payment was, in fact, made by me.

Research seems to indicate that the decision as to what is in keeping with the proper use of Senate funds and mail and other items is really based on the honour system, that there are virtually no written guidelines, and that the decisions are up to the senator involved.

I want to make a number of things clear. First, with regard to the arrangements I made with Mr. Jarvis to procure seven persons to make telephone calls from my office, it was agreed that Mr. Jarvis would procure their services and that I would be billed for the amount and would pay it myself. Contrary to news reports, at no time did Mr. Jarvis ask me to repay this account. I paid this of my own volition and without any request being made to me by anyone.

With regard to personnel working for me, I have followed the practice for some years of hiring, on my own behalf, a number of people on short-term contracts rather than spending my secretarial allocation on one person. In the fiscal year 1987-88—and this is taken from a report that was made to the Internal Economy Committee—all of the items of expenditures on behalf of employees in my office fell considerably short of the total allocation for a senator's secretary.

In the current year to date, totalling all of the funds paid for secretarial work, there is a substantial amount of money remaining. In the case of research assistance, the bulk of that budget or that allocation remains to be spent. The personnel provided to my office has come, and comes today, well within the provisions of the moneys allocated by the Senate.

Allegations have been made that taxis have been used on behalf of my wife's campaign that have been paid for by the Senate. On reviewing the history of these taxi chits, it is a fact that in recent months and weeks the number of taxi chits coming to my office increased substantially. At no time was any flag waved; at no time did any official contact me or, as far as I know, anyone in my office to say, "There are an unduly large number of chits coming to your office." At no time, as I have said, was I informed by Senate Personnel that this situation was as I have stated. Of my own volition, I have repaid all of the expenses incurred to the Senate by way of these taxi chits for the period January 1 of this year to date.

French lessons have been provided to one member of my staff. This arrangement is entirely between that person and Senate Personnel.

There is the question of printing and printing supplies. The submission from the Clerk's office shows that supplies in the amount of 86,060 sheets of paper, ink, a few thousand envelopes and related supplies were made available, totalling $320.70, and the total amount of this category is $1,291.70. Sixty thousand of these sheets were used in bulk mail, and the

remaining numbers were used for a number of other substantial mail-outs, including mail for a Christmas party and a large mail-out to promote a health conference that I was pleased to assist in sponsoring, held in room 200 on March 22. A later health conference involving many of the same people, held in room 200, was sponsored by Senator Haidasz, Mr. A. Redway, a Conservative MP, and some ten other Conservative members of Parliament.

I believe that this explains, according to the document that was provided to the Internal Economy Committee, the supplies that were provided and the printing that took place. I want to say that others have been refused printing by the printer, and I understand that on certain occasions appeals have been made. I made an appeal to the Clerk on the basis of the householder mail, but in every other instance, if the printer decided that a request should not be followed, I made no objection whatsoever.

Then there was the question of the number of telephones in my office. These telephones were provided as a result of a conversation I had with the Gentleman Usher of the Black Rod. Subsequently, I sent a memorandum to Mr. Jalbert confirming the understanding. I could read all of the memorandum, but I think it would be sufficient if I read the concluding paragraph only.

This memorandum is dated December 10, 1987. It is addressed to Major René Jalbert, Gentleman Usher of the Black Rod, and it is signed by me. This memorandum is requesting additional telephones, and the last paragraph says:

> In any event I do not want to charge to the Senate any telephone services I may have over the normal maximum number allowed Senators.

I have received no request for any payment with regard to the telephones in my office.

Information has been supplied with regard to the amount of postage that was used. This information was provided by the Senate Post Office. It shows three items: January 29, 1988, $394.05; February 7, 1988, $550; March 7, 1988, $66.96. I should like to explain to honourable senators that $66.96 was paid to the Senate Post Office for the purpose of sending out a bulk mailing. The other $944.05 was used to purchase 37-cent stamps from the post office. This was a commercial transaction, and I think requires no further explanation.

Honourable senators, I wonder if the *Ottawa Citizen*, in being so interested in Senate activity, is guilty of a double standard. There was a campaign by Maureen McTeer to win a Conservative nomination. Referring to that activity, *Maclean's* magazine of May 23, 1988, had this to say:

> McTeer's slick campaign was directed by a team of seasoned organizers headed by Robert Valcov, chief of staff to Jean Charest, federal minister of state for youth, fitness and amateur sport.

The *Ottawa Citizen*, on May 20, 1988, reports that on McTeer's campaign there were a dozen members of Clark's staff in External Affairs roaming the aisles with walkie-talkies. That was the night of the nomination. The Citizen also reported that she had a top-flight campaign manager.

When looking at the Senate and the Argue campaign, would it be fair to ask why the *Citizen* does not give the same attention to the Clark-McTeer campaign, make an inquiry, and apply the same standards of investigation?

I believe it is correct to say that we in the Senate operate quite generally on an honour system. I believe all of us—at least nearly all of us—are members of a political party. Some of the activity in my office is, and has been from the time I first became a senator, in support of my political party, and for this I make no apology.

An Hon. Senator: Hear, hear!

Senator Argue: I am pleased to be able to report to the Senate on this question of privilege and to deliver the facts contained therein.

[Senator Argue.]

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

TWENTY-NINTH MEETING HELD AT KEY WEST, FLORIDA

Hon. R. James Balfour: Honourable senators, I have the honour to present to the Senate, in the two official languages, the report of the parliamentary delegation of the Canadian section of the Canada-United States Inter-parliamentary Group that attended the twenty-ninth annual meeting in Key West, Florida, from May 5 to 9, 1988.

I have no hesitation in saying that this year's meeting with the delegation from the United States Congress was the most informative, relevant and successful inter-parliamentary meeting that I, personally, have attended. Not surprisingly, the U.S. delegation asked that this year's agenda be devoted almost entirely to the Free Trade Agreement. Accordingly, at three plenary sessions a range of issues relating to the agreement were dealt with. Since both delegations were well informed on trade issues, a valuable exchange of views took place. Senior U.S. delegates commented that they had found the meeting both useful and instructive.

I might add that, particularly on the U.S. House side, the delegation included a number of influential figures, including three important House committee chairmen and, as well, the chairman of the Trade Subcommittee of the House Ways and Means Committee, a particularly key figure in the procedure related to the Free Trade Agreement.

While most of the meeting was spent on issues specifically related to the agreement, discussions in committee also dealt with other bilateral subjects, such as subsidies, acid rain, fisheries, Great Lakes levels and Arctic sovereignty.

On the thorny subject of subsidies, the group decided to set up a subcommittee to compare the subsidies of the two countries. It was considered that negotiations to develop a common code on subsidies as specified under the agreement might be made easier if parliamentarians were knowledgeable about each other's incentives.

On acid rain, the Canadians pressed the U.S. legislators to bring forward legislation to curb emissions into Canada. In addition, the co-chairman of the Canadian section, Patrick Nowlan, MP, and I responded with a follow-up letter to an offer by a senior U.S. congressman to investigate why the Administrator of the U.S. Environmental Protection Agency was not applying a section of the U.S. Clean Air Act that mandated curbs on emissions reaching across international borders.

Honourable senators, with leave of the Senate, I ask that the report of the twenty-ninth meeting of the Canada-United States Inter-parliamentary Group 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 it agreed?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 3816*).

Hon. H.A. Olson: Honourable senators, I should like to say a word or two about this matter. I want to concur with the remarks of Senator Balfour that this meeting was extremely useful. I will not go into any of the details, but I know that certain explanations given by the Canadian delegates to the members of both houses of the United States Congress were very informative both as to their consideration respecting the free trade arrangement, which they dealt with for the most part, and with respect to other subjects as well.

• (1420)

Without going into a long explanation, I wish to concur that it was an extremely useful exchange of views on a number of important matters to both our countries.

Hon. Senators: Hear, hear!

NATIONAL FILM BOARD

INQUIRY ON REPORT ON FILM ENTITLED "THE KID WHO COULDN'T MISS"—REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED AND PRINTED AS APPENDIX

Hon. Jack Marshall: Honourable senators, the Standing Senate Committee on Social Affairs, Science and Technology has the honour to table its seventeenth report, respecting the National Film Board production "The Kid Who Couldn't Miss". I 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 Appendix "B", p. 3857.*)

Senator Marshall: Honourable senators, with your permission, I should like to make a few comments on the report. Before proceeding, I think it is significant that I call the attention of the Senate to the presence in the gallery of Mr. George Pearson, the new producer of the film on Billy Bishop, and of Colonel A. J. Bauer, who will be a consultant on the new film.

Hon. Senators: Hear, hear!

Senator Marshall: Honourable senators, it is with a sense of some relief that I table the final report of the Subcommittee on Veterans Affairs on the examination of the National Film Board production and distribution of the film "The Kid Who Couldn't Miss".

First of all, may I express my appreciation to Senator Tremblay, chairman of the Committee on Social Affairs, Science and Technology, for giving me the privilege of tabling the report. As well, may I thank him for the confidence he extended to the subcommittee, allowing it to act with freedom and independence in carrying out its duties. I also extend my respect to all members of the parent committee for their support.

In extending our appreciation to the members of the subcommittee, Deputy Chairman Senator Bonnell and Senators Molson and David, and as well to Senators Everett and McElman, who, although not members of the subcommittee, attended all meetings, and to others who gave devoted support to us and participated in the fight against this significant challenge to the fundamental rights of a Canadian hero, we, as a legitimate arm of Parliament, can take satisfaction in our efforts to protect the record of Air Marshal William Avery Bishop, V.C., B.C., DSO and Bar, M.C., D.F.C.

I want to remind the Senate that it was our distinguished colleague and Battle of Britain fighter pilot, the Honourable Senator Molson, who initially raised this matter in a speech given in the Senate on February 7, 1984, less than a year after the release of the film, but over four years ago. I want to pay special tribute to him.

To my mind, and I am sure to most of us, through his efforts he set an example to those who responded to his leadership and contributed to carrying out one of the Senate's responsibilities, that of protecting an individual's rights.

Hon. Senators: Hear, hear!

Senator Marshall: As honourable senators are aware, when the subcommittee which I chair was formed, with the unanimous consent of the Senate, it provided a forum to which Senator Molson could refer the matter of the examination of the Billy Bishop film, and he did so on September 18, 1985. The order of reference was made a few weeks later, on October 8, 1985.

I insert here for the record the date of April 15, 1986, when our first report was tabled and then debated with a resulting vote of 28 to 17 in favour of referring the matter back to the committee for reconsideration. That took place on May 18, 1986. I make that insertion to establish that, although we were not able to resolve the matter at the time, the wide publicity which the committee's hearings received commanded the attention of veterans' groups and of citizens, who joined in support of the Senate's action and caused an outcry across the country against the action of the film's producer in putting

forward a thesis that, without evidence and without any apparent good reason or cause, demeaned the reputation of our foremost military hero.

In the second phase of our examination, new evidence was brought forward by Mr. Wesley Rogers of Thunder Bay, the son of a close friend of Billy Bishop; an essay written to him by Freddie Bourne about his service as Bishop's mechanic contradicts the producer's thesis. I hope honourable senators will read the report I have tabled today, particularly the section that illustrates the close relationship that exists between pilot and mechanic, which, in the case of Bourne and Bishop, was a relationship based on mutual trust, faith and respect, because the mechanic holds his pilot's life in his hands every day and hour that the plane is in the air.

Another contradiction of the producer's thesis was put forward in information given to the subcommittee by Robert Bradford, associate director of the National Aviation Museum. He disproved the film's plot surrounding technicalities of landing a Nieuport 17 and taking off again without assistance, the damage suffered by the aircraft as reported by Bishop's squadron commander, and the question of the missing machine gun. I hope that honourable senators will also pay attention to this new evidence.

I stress that during our deliberations we did encounter criticism of the fact that a body of Parliament would dare question the freedom of expression and artistic licence concept of the filmmaker. But, regardless of the criticism, I believe it was absolutely necessary that the inquiry be undertaken. In fact, I think that, on balance, the whole exercise may have done Canadians some good.

It may have prompted us to guard against those who, for reasons of notoriety or whatever, would distort or ridicule the recorded deeds of our forefathers. Honourable senators, we ought to take great pride in our historical achievements, not search for dubious methods to belittle them.

Much of the discussion about the film centered on the wording of a disclaimer that the subcommittee insisted be inserted in the film. When our first report was tabled, the following disclaimer was detailed:

> This film is a docu-drama and combines elements of both reality and fiction. It does not pretend to be an even-handed or chronological biography of Billy Bishop.
>
> Although a Walter Bourne did serve as Bishop's mechanic, the film director has used this character to express his own doubts and reservations about Bishop's exploits. There is no evidence that these were shared by the real Walter Bourne.

That is the truth, honourable senators.

That disclaimer was not adopted by the National Film Board, which came back with its own version of a disclaimer:

> The film you are about to see is a docu-drama.
>
> It is a perspective on the nature of heroism and the legend of Billy Bishop.
>
> It contains both actual documentary footage and dramatized segments.

The NFB disclaimer, however, was not acceptable to the subcommittee, if only because it did not clarify for audiences the fact that Bishop's air mechanic had been grossly misrepresented in the film. It was finally agreed between the government film commissioner and myself, in a private meeting and in follow-up correspondence which is included in the report, that the disclaimer to "The Kid Who Couldn't Miss" would read as follows:

> This film is a docu-drama and combines elements of both reality and fiction. It does not pretend to be a biography of Billy Bishop. Certain characters have been used to express certain doubts and reservations about Bishop's exploits. There is no evidence that these were shared by the actual characters.

The National Film Board agreed to add this disclaimer following its logo in the film so that it might not be missed by presenters or audiences. The National Film Board also agreed that Colonel A.J. Bauer, who provided research assistance to myself and other members of the subcommittee throughout the years of the study and to whom we owe a debt of gratitude, will be a consultant on the new documentary to be produced by the Film Board.

I feel satisfied, honourable senators, that the new film will be a quality production that will properly fit within the mandate of the National Film Board to "show Canada to Canadians and to others".

The approach of producer George Pearson, whom I introduced earlier, will be to emphasize three facets of World War I aviation and Canada's role in it. He will describe the machines and their structure and the challenge they offered to airmen. He will show how the tactics of air warfare were developed. He will present the achievements of Canadian aviators and the place of Billy Bishop among them.

I believe Mr. Pearson will produce a work that will make us proud of our heritage and, more significantly, proud of the work that our National Film Board can do. But the new film will be a far cry from the solution that was demanded of me by some 77,000 protesting Canadian veterans and others. They wanted, and I wanted—and I still want—the National Film Board to withdraw "The Kid Who Couldn't Miss", because it is an historically inaccurate film that does not tell the truth about a significant individual Canadian.

• (1430)

Nevertheless, what we will achieve by the new film is probably the best that we can hope for at this time. To my mind, it is most regrettable that the National Film Board willingly permits itself to suffer continuing criticism of the earlier production for as long as that film remains in circulation. It is even more regrettable that successive Ministers of Communications, and many others who might have exercised influence since 1983, have condoned distribution of the film and have refused to support the subcommittee.

The new film will be in the format of a one-hour television documentary. It is a mark of the intent of the producer that the film will not be completed until probably late 1989 or even early 1990. Mr. Pearson has already visited Owen Sound, Bishop's home town, and has spoken with Colonel Bauer and others there. He has already consulted with officials in the directorate of history of the Department of National Defence, with Mr. Robert Bradford, to whom I referred earlier, the associate director of the National Aviation Museum, and with Mr. Philip Markham, a notable Ottawa air researcher.

Just last week some members of the subcommittee and I had a luncheon discussion with Mr. Pearson. As a result, I am hopeful that we will see a new film that will give a proper perspective of the place in history of Canadian aviators and their machines and how they operated those machines to the great benefit of our veterans, our allies and our national heritage.

Hon. Senators: Hear, hear!

NATIONAL TRANSPORTATION ACT, 1987

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Charles Turner, Acting Chairman of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, July 5, 1988

The Standing Senate Committee on Transport and Communications has the honour to present its

TENTH REPORT

Your Committee, to which was referred Bill C-131, An Act to amend the National Transportation Act, 1987, has, in obedience to the Order of Reference of Tuesday, June 28, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

CHARLES TURNER
Acting Chairman

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTIETH REPORT OF COMMITTEE PRESENTED

Hon. William J. Petten, for Hon. Royce Frith, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, July 5, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTIETH REPORT

With respect to its meeting of Thursday, June 30, 1988, your Committee reports the following decisions for approval by the Senate.

1. With respect to printing requests and use of other Senate facilities, all Senators are on the honour system and staff will accede to the requests of all Senators made in the course of carrying out their senatorial duties.
2. With respect to the submission by the lawyers of the Ottawa *Citizen* entitled: "Submissions of the Ottawa *Citizen* to attend Committee hearings dealing with the use of Senate monies for the Jean Argue Liberal nomination campaign", your Committee considered the submission and decided by a majority that the submission does not need a verbal clarification.

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

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

MACEDONIA

NOTICE OF INQUIRY

Hon. Philippe Deane Gigantès: Honourable senators, I give notice that on Tuesday next, July 12, 1988, I will call the attention of the Senate to the question of Macedonia.

PRINCE EDWARD ISLAND

PROBLEMS OF TRANSPORTATION—NOTICE OF INQUIRY

Hon. M. Lorne Bonnell: Honourable senators, I give notice that on Thursday next, July 7, 1988, I will call the attention of the Senate to the problems of transportation in the province of Prince Edward Island.

ENERGY AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO PUBLISH AND DISTRIBUTE INTERIM REPORT ON PRODUCTION AND USE OF NATURAL GAS IN CANADA

Hon. R. James Balfour: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*e*), I move:

That, in the event of an adjournment of the Senate which exceeds one week, the Standing Senate Committee

on Energy and Natural Resources be authorized to publish and distribute its Ninth Report (interim) on the examination of the production and use of natural gas in Canada, with particular reference to natural gas deregulation, or any matter relating thereto, as soon as it becomes available; and,

That, in the event of a prorogation of Parliament, the Honourable Senators authorized to act for and on behalf of the Senate in all matters relating to the internal economy of the Senate during any period between sessions of Parliament or between Parliaments, be authorized to publish and distribute the above-mentioned interim report.

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

Hon. Senators: Agreed.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I wonder if we can have an explanation of this motion from the chairman?

Senator Balfour: Honourable senators, I presented the motion, as deputy chairman, on behalf of our chairman, Senator Hastings, who is out of the country.

Senator Flynn: That is a good explanation.

Senator Balfour: The purpose is that, notwithstanding the fact the Senate is not sitting or an election is called, the publication and the distribution of the report, which is presently in the writing stage, will be carried forward.

Motion agreed to.

CHILD CARE

DEADLINE EXTENDED FOR PRESENTATION OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE REPORT ON FINAL REPORT OF SPECIAL HOUSE OF COMMONS COMMITTEE ON CHILD CARE ENTITLED "SHARING THE RESPONSIBILITY" AND FEDERAL RESPONSE

Hon. M. Lorne Bonnell: Honourable senators, I move, seconded by Senator Spivak, with leave of the Senate and notwithstanding rule 45(1)(*e*):

That, notwithstanding the Order of the Senate adopted on Tuesday, 9th February, 1988, the Standing Senate Committee on Social Affairs, Science and Technology, which was authorized to continue its examination of the Final Report of the Special Committee of the House of Commons on Child Care, entitled: "Sharing the Responsibility", be empowered to present its report no later than Friday, September 30, 1988.

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

Hon. Senators: Agreed.

[Senator Balfour.]

Motion agreed to.

QUESTION PERIOD

[*Translation*]

CANADA-IRAN RELATIONS

NORMALIZATION OF DIPLOMATIC RELATIONS—GOVERNMENT POLICY

Hon. Eymard G. Corbin: Honourable senators, I have a question for the Leader of the Government.

[*English*]

Does the Government of Canada intend to continue its efforts to re-establish normal diplomatic relations with Iran?

• (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the answer is yes.

Senator Corbin: I presume, if I understand the answer, that efforts are under way, but does the Government of Canada not realize that in doing so at this time it would give immense credibility to the Khomeini régime, which is responsible for the deaths of tens of thousands of young Iranians in the most violent fashion, and that it would, at the same time, recognize a régime which is responsible for one of the cruelest wars in this century, a régime which refuses to sit down with Iraq to talk peace? Does the government not feel that to do so would not be in the best interests of Canadians at this time?

Senator Murray: Honourable senators, Canada and Iran have never ceased to recognize each other in the diplomatic sense. After the 1980 incident, with which my honourable friend is familiar, Canada withdrew its diplomats from Tehran and Iran downgraded its representation here and left a Chargé d'affaires in Ottawa. Since 1982 discussions have been going on between our two countries as to the possible normalization of relations between Iran and Canada.

The stumbling block for some time seems to have been that Iran was insisting that Canada apologize for its part in harbouring and assisting in the escape from Iran of United States diplomats. This, of course, Canada, under both the previous government and the present government, has refused to do.

That stumbling block aside, we have consistently made known our view that Canada has no interest in maintaining strained relations with that country and would prefer to proceed to normalize our relations with them.

• (1450)

Senator Corbin: Honourable senators, of course I understand that we are talking about re-establishing normal diplomatic relations with Iran. Nevertheless, we are dealing with a régime that is vicious in more ways than one. I cannot see what we hope to gain by not letting matters stand as they have since the crisis over the American hostages.

With a régime that could be ousted one way or another—not necessarily tomorrow, but in coming weeks, months or within a year—we would not necessarily be ingratiating ourselves with an eventual new government by recognizing one that has used violent means to kill its own citizens and to push them into the trenches to be killed and refuses to sit down and negotiate a peace settlement. It seems to me that is not the position Canada has taken in the past with respect to other conflicts, in the United Nations forum for example.

Senator Murray: Honourable senators, without trying to enter into a debate in the oral Question Period, the fact of the matter is that, while my friend uses the term "recognition", there is no question of recognizing or not recognizing Iran. We have never ceased to recognize that country and the government now in place in that country. There are many countries whose governments may be ousted, as my friend puts it, within the next year or two.

Senator Olson: Including this one.

Senator Murray: We recognize the governments of many countries that my friend and others in Canada would consider by most normal standards to be undesirable. Nevertheless, we recognize the *de facto* situation in those countries, and we have never found that there is much to be gained by cutting off diplomatic recognition of a country for the reasons that my friend has stated.

Hon. Peter Bosa: Honourable senators, one of the conditions which Iran demanded for re-establishing full diplomatic relations between the two countries was that Canada apologize for what Canada's ambassador did in 1980 by assisting some American diplomats to get out of the country. Is that still the condition today?

Senator Murray: Honourable senators, on the basis of recent discussions that Canada has had in Ottawa, we have some reason to believe that that condition has been dropped.

AGRICULTURE

WESTERN CANADA—DROUGHT CONDITIONS—EFFECT ON PRICE OF BREAD

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government in the Senate to request that his colleague the Minister of State for Grains and Oilseeds, or his colleague the Minister of Consumer and Corporate Affairs, issue a statement correcting a very serious assertion by a number of people who claim that the price of bread will increase by 4 to 10 cents because of the increased price of wheat resulting from the drought. The fact is that it was only a little while ago that the government announced that it was discontinuing the two-price system, which meant that the millers paid the equivalent of $7 per bushel for the flour that they used in Canada. Surely, even with the increase in the price of grain to the producer, it is highly unlikely that it would return to $7 per bushel. Indeed, there should be an overall decline in the price of bread if it is to be attributed only to what the farmers get for the wheat.

• (1500)

I am not arguing that they ought not to have an increase. If they wish to have an increase in the price of bread, so be it; that is their business. However, to attribute it to an increase in the price of the flour going into that bread because of the increased cost of wheat produced by the farmers is simply an erroneous statement.

I have heard this five or six times on television and have read of it in the newspaper. Part of it is attributed to Mr. George Fleischmann, the president of the Grocery Products Manufacturers of Canada. I would appreciate it if the government were to correct this obviously erroneous statement.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall draw Senator Olson's statements to the attention of my ministerial colleagues. If they have any comment to make on those statements, I shall convey them to him.

CANADA-UNITED STATES RELATIONS

TREATMENT OF CANADIAN CIRCUIT BOARDS BY UNITED STATES CUSTOMS

Hon. Philippe Deane Gigantès: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate relating to our trade with the United States.

The other day the CBC aired a program indicating that exporters of Canadian circuit boards for computers are being harrassed by the U.S. Customs Service. Is the Leader of the Government willing to examine this issue and let us know if we are at fault? Are our circuit boards infringing upon intellectual property in the United States, as the Americans seem to allege, or is this gratuitous harrassment?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I will investigate to see whether my colleagues are aware of the CBC broadcast to which the honourable senator refers, and, if so, whether they have any comment they would like to convey to the Senate on this matter.

Senator Gigantès: I thank the honourable senator, and I will anxiously await his answer.

CANADA-UNITED STATES FREE TRADE AGREEMENT

BULK EXPORT OF WATER—PROVISION FOR PROHIBITION

Hon. Philippe Deane Gigantès: I have read the book entitled "The Canada-U.S. Free Trade Agreement". I should like the Leader of the Government to tell us under which section in this book, which I have read cover to cover, as I am sure he has, the bulk export of water is prohibited. I am not talking about Perrier or Montclair, but exports in bulk.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not at all aware that there is an explicit

prohibition contained in the book or in any other book. The point is that there is nothing in the agreement that requires Canada to engage in any form of international trade with regard to its water resources. The fact of the matter is that Canada has a policy in that regard, which was stated some months ago by my colleague the Minister of the Environment. We do not sanction, nor do we contemplate, the export of our water resources.

Senator Gigantès: Honourable senators, there are explicit exclusions for other things, but there is not an explicit exclusion for water. Parts of this agreement exclude certain items, but water is not one of them.

Article 409 says something that, according to some Canadians who have been writing to me, makes it possible to export water. The minister's colleague says that it is not the government's intention to permit the bulk export of water.

However, Bill C-130 says that the agreement takes precedence over all our legislation. If someone starts exporting water, and the Americans say that this is proper under article 409, how do you stop them?

Senator Murray: Honourable senators, it is within the competence of Canada to decide what to do about the export of its water resources. This government has taken a decision some time ago, announced by the Minister of the Environment, that we do not contemplate and we do not sanction or favour or permit the export of our water resources. I do not know what I can add to that.

However, if the honourable senator wishes to pursue the background to it in terms of the Free Trade Agreement and the status of any prohibition on water exports vis-à-vis the Free Trade Agreement, he has opportunity to do so in the Standing Senate Committee on Foreign Affairs, which is presently studying the Free Trade Agreement.

AGRICULTURE

WESTERN CANADA—DROUGHT CONDITIONS—EFFICACY AND PROPRIETY OF GOVERNMENT RECOMMENDATIONS AND ACTION

Hon. Efstathios William Barootes: Honourable senators, it appears that this past weekend a very sensitive, understanding and munificent government has undertaken some relief for the drought-stricken prairies. I am surprised that Senator Olson has not asked a question about this, since he has repeatedly been asking about it in the past.

I should like to ask a question of the chairman of the Standing Senate Committee on Agriculture and Forestry, if his recent and temporary crippled condition will allow him to rise to answer it. As you know, some months ago $12 million was provided for the PFRA, to help farmers in communities develop new water resources. That was only an early measure. Now we hear that the federal government, cost-sharing with the provincial governments, is providing somewhere in the region of $153 million for the livestock situation that has come about as a result of the drought.

[Senator Murray.]

Among the many measures in this are four other main thrusts. The first one is for the federal initiative to provide up to $100 million, cost-shared in per-head payments to livestock producers. These payments are up to $60 per head. The second thrust is for a federal-provincial initiative to provide a further $53 million to stimulate grain feeding production in the west, partly by allowing producers an estimated $15 per acre on some of their land with some restrictions applying. The third thrust has been to allow insured farmers, particularly in Saskatchewan, to allow grazing on their spring and fall-seeded crops as a source of animal feed, as those crops appear to be destined to virtually total failure in some areas. The final thrust is a tax deferral scheme for those livestock producers who, of necessity, must cull and do away with their herds because of the lack of forage. This scheme relates to a tax deferral for at least one year on the payment of taxes resulting from revenue obtained from such a sale in order to allow them to rebuild their herds in the future.

Inasmuch, Mr. Chairman, as these—

Senator Steuart: Are you asking a question? Yes or no!

Senator Barootes: I am sorry, I did not hear what the gentleman was braying.

Senator Doody: He wanted you to repeat the question!

Senator Barootes: The question is—

Hon. Philippe Deane Gigantès: May I ask a question?

Senator Barootes: Are you afraid that I am phrasing the question in the same way as you have done in the past?

Senator Gigantès: May I ask a question of Senator Barootes?

Senator Barootes: My question is this: In view of the fact that these suggestions and recommendations now being carried out are the same as those which your committee, of which I am a member, had recommended to the federal government, would you comment on the efficacy and propriety of these recommendations?

Senator Gigantès: I should like to ask Senator Barootes a question on his question.

Senator Barootes: I am asking a question of the chairman.

Senator Gigantès: Would Senator Barootes agree that when he refers to the munificence of this government he should instead refer to the munificence of the Canadian taxpayers?

Senator Barootes: I would be very happy to make that acknowledgement.

Senator Gigantès: Thank you.

Hon. Dan Hays: Honourable senators, on behalf of the members of the committee, I believe it is safe to say that we are very pleased with the government's announcement. As Senator Barootes observed in answering his own question, the program tracks very closely the recommendations made by the standing Senate committee, passed unanimously in a bipartisan spirit, I might say, by the committee and subsequently passed in the same bipartisan spirit unanimously by this

chamber on June 8. It does go further than the committee's recommendations with respect to assistance for forage, and I think it is safe to say that we are all pleased to see that.

• (1510)

As to the adequacy of the program, my personal opinion is that it is adequate. It will be difficult to define those areas of western Canada where the program will take effect and those where it will not, because it is difficult to say where the drought ends and where it starts. However, subject to the two levels of government doing a good job on that matter, I think we in the Standing Senate Committee on Agriculture and Forestry are very pleased to see this occur.

The only complaint that we have—and I think it is a proper one—is that it would have been more appropriate to announce the program on June 8, when this chamber gave approval to the recommendations of the committee, which reported on June 1 pursuant to a reference moved by Senator Olson.

CANADA-UNITED STATES FREE TRADE AGREEMENT

STATEMENT BY PRIME MINISTER OF UNITED KINGDOM RE DIMINUTION OF NATIONAL PERSONALITY—EXTENT OF KNOWLEDGE

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a question for the Leader of the Government in the Senate arising out of comments made by the Right Honourable Margaret Thatcher to both houses of Parliament in the House of Commons Chamber on June 28 of this year, which appear at page 3783 of the *Debates of the Senate*. These are Mrs. Thatcher's comments, and they have not been taken out of context:

> On the basis of Britain's experience of joining the European Community, you need have no fear that Canada's national personality will be in any way diminished.

Honourable senators, as you know, the European Community, under the Treaty of Rome, has more than a free trade arrangement. It involves a whole number of political institutions, commissions, the European Council, the Council of Ministers and the European Parliament. In view of this, I wonder if the Right Honourable Margaret Thatcher knows something that the Right Honourable Brian Mulroney has not disclosed to the Canadian public—in other words, that this Free Trade Agreement is part of a larger political agenda with the United States.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Prime Minister of the United Kingdom was making a point that I would have thought was obvious, even to the honourable senator: that Great Britain had maintained its own identity and sense of Britishness even in a community that, as the honourable senator notes, features far more integration than would be contemplated under a simple free trade treaty such as the one contemplated between Canada and the United States.

Senator Grafstein: The Leader of the Government in the Senate is really not responding to my question. My question is whether or not the Free Trade Agreement is part of a preliminary step leading to a number of other bilateral, structural and institutional arrangements paralleling those that are in place between the United Kingdom and the European Community.

Senator Murray: Honourable senators, my honourable friend and a number of his friends are trying, quite unsuccessfully, to spread that story around the country and to alarm Canadian citizens about what the future holds. As I say, the attempt has been noticeably unsuccessful. People see the free trade treaty between Canada and the United States for what it is: an obvious economic step to take between the two countries that have the biggest trading relationship in the world in order to lower trade barriers to the benefit and for the prosperity of people on both sides of the border.

Some Hon. Senators: Hear, hear!

DISPUTE-SETTLEMENT MECHANISM

Hon. Philippe Deane Gigantès: Does the Leader of the Government imply that it is the same thing to have as a final arbiter of trade disputes among partners a council such as exists in the Economic Community, where the small nations have nine votes and the four large nations have four, and thus the four large nations can be split by coalitions of small nations? Is he comparing that to the sort of arrangement we and the Americans will have—a binational arrangement wherein the Americans, representing 250 million people, have a vote and we, representing 25 million, have another vote? I say to him: Which of these votes will have the most clout and who will support us?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, this is a rather academic argument that the honourable senator is making. He may wish to pursue it again in the Standing Senate Committee on Foreign Affairs where the treaty is being studied, or again in that committee when Bill C-130 is being pre-studied, if it gets there.

For the moment, I simply remind the honourable senator that there are vetos in the European Economic Community and there are also vetos held by each partner in the proposed Canada-U.S. agreement, the ultimate veto being our right—and theirs—to renounce the agreement.

Senator Gigantès: Honourable senators, I am glad to hear the Leader of the Government in the Senate put on the record this veto, which makes the term "binding" utterly ludicrous in the sense that, if a binational panel—and afterwards the commission—finds against the United States, and the U.S. does not want to apply that finding according to several articles in Chapter XVIII and Chapter XIX of the agreement, then our last recourse is either to retaliate or to leave the agreement.

Since trade with the United States represents 24 per cent of our gross domestic product, but trade with us only represents

for the Americans 2 per cent of their gross domestic product, the damage that they can do when they retaliate is much heavier than the damage we might do. Also, the problem of withdrawal, once further ties have been created, is much greater for us than it is for the Americans.

I am glad that the Leader of the Government in the Senate has put this matter on the record. If I have misinterpreted him in these comments of mine, I would be delighted if he told me so.

Senator Murray: Honourable senators, I am sure the honourable senator has misinterpreted me. In any event, we had an exchange some months ago on this very matter and I thought I had persuaded the honourable senator—at least to my own satisfaction—that the United States Congress and the United States government, having agreed in a solemn treaty to bind themselves to certain decisions of binational panels, would not be prepared to make outlaws of themselves by contravening the law that they had sanctioned. Furthermore, I think it is a very insulting basis for a question, to suggest that that would be the intention of either of our two governments.

Senator Gigantès: Is the honourable Leader of the Government in the Senate not aware that of all of the members of GATT the member that has most often defied GATT decisions is the United States, even though it has signed, and undertaken to abide by, those decisions? The figures and the proportions in the particular cases can be found through the Department of External Affairs or in the Library of Parliament.

Senator Murray: Honourable senators, I view the honourable senator's statistics and his interpretation of those statistics with the greatest of suspicion. I would have to know what he means when he talks about defying decisions of GATT to which the United States has agreed to be bound. I think the honourable senator's statistics and his use of them merit pretty close scrutiny.

• (1520)

Senator Gigantès: That is an acceptable and parliamentary way of calling a fellow senator a liar. At least I put it out on the line for the leader to take shots at me. I can prove to the leader that I am not lying. It is very difficult to get an answer out of the Leader of the Government in the Senate, because whenever one asks the leader a question that he finds at all difficult he simply says, "Go and talk about it in a committee."

STATEMENT BY PRIME MINISTER OF UNITED KINGDOM RE DIMINUTION OF NATIONAL PERSONALITY—EXTENT OF KNOWLEDGE

Hon. Jerahmiel S. Grafstein: Honourable senators, may I return to the subject matter that provoked this exchange between my friend Senator Gigantès and the Leader of the Government in the Senate, and that is the basis upon which the Right Honourable Margaret Thatcher would have made the statement, which she premised by saying it might be somewhat controversial?

[Senator Gigantès.]

Were the government officials of the United Kingdom and Mrs. Thatcher briefed on the Free Trade Agreement? Can we assume that she made that statement based on knowledge and understanding received from officials of the Canadian government or from the Prime Minister of the country?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the British have long experience in international affairs. There is not much doubt that Britain has one of the better diplomatic services in the world. In addition to that, Britain has many close ties with this country. We are both members of the Commonwealth, we trade with each other, and Britain maintains, I am sure, a very active and competent staff in this country. It would be far-fetched to suggest, as the honourable senator has suggested, that their information on the Canada-United States Free Trade Agreement, or on any other important matter in the field of international economics, would be based on inadequate information.

Senator Grafstein: Perhaps the Leader of the Government in the Senate will use this opportunity to reject the newspaper articles that appeared following the Economic Summit in Toronto, which indicated that officials of the Canadian government briefed Mrs. Thatcher and/or her officials with respect to the Free Trade Agreement specifically in order to obtain an endorsement at the Economic Summit, and it was that information that might have led Mrs. Thatcher to conclude, as she did, that there is a similarity between the Free Trade Agreement and her experience in the European Community with respect to the United Kingdom.

Senator Murray: Honourable senators, the two types of agreements are so different that it would be quite insulting to suggest a political leader and world figure as experienced as Mrs. Thatcher would be at all confused about what is involved.

Senator Grafstein: I do not mean to belabour the point, but I am not suggesting that Mrs. Thatcher would be confused; quite the contrary. All I am suggesting is that she had information or knowledge upon which she based that conclusion.

I take it that the Leader of the Government in the Senate is telling us that there was some information given to her and she came to the conclusion that the experience of the United Kingdom in the European Community is similar to that of Canada's experience with the United States.

Senator Murray: Once again, honourable senators, the point that I believe Mrs. Thatcher was trying to put across, with an obvious lack of success so far as my friend is concerned, is that free trade does not lead to cultural integration.

AGRICULTURE

PLIGHT OF TOBACCO FARMERS IN SOUTHWESTERN ONTARIO—GOVERNMENT ASSISTANCE

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate relating to the plight of tobacco farmers in southwestern Ontario, which is

particularly apropos since we have dealt with Bill C-51 and Bill C-204.

If I may, I should like to read a short extract from a letter I received from a Mr. Peter Gubbels of R.R. 3, Delhi, Ontario. He writes:

> For most tobacco farmers the question of smoking in relation to health is not the issue in question. We would be naive to think that consumption of tobacco products isn't detrimental to one's health. Most farmers in the tobacco belt can accept controls on smoking and a restrictive advertisement policy. I too would agree, although reluctantly, that we need a responsible tobacco policy.
>
> But the fact remains that I make my living as a tobacco farmer. Believe me, for years I have been trying hard to find a means to diversify out of the tobacco business. But because of the sandy soil of my farm, the limited land base and its highly capitalized structure, there are just no crops available that would allow me to do that. Even if by chance I have overlooked an opportunity, the equity in my farm has now eroded to the point that I couldn't borrow the necessary capital to start afresh.
>
> For many of us these are sad times. Not because of the new legislation but because we perceive the issue to be a political struggle between two very powerful lobby groups—the anti-smoking lobby and the cigarette industry. But in all the proposed legislation there is no mention of the farming community. If you look at what has taken place in the last five years, who has suffered most? Despite decreasing consumption, taxation revenues have now increased to 4.1 billion dollars. Manufacturers' profits are at an all-time high. Yet we as farmers have been ignored. Not only are these people losing their farms but they are being stripped of their dignity without any form of compensation. In my own community a number of producers, unable to cope with the pressures, have committeed suicide, while others have just moved away leaving their farms to their creditors. These people are good, responsible people. Families who worked hard to develop their farms with a sense of pride.

I think this letter is representative of a great many farmers in the Delhi, Simcoe, Waterford region of southwestern Ontario. I should like to know what plans the government has to assist them with their problems.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as I believe my honourable friend noted, or his correspondent noted, there are and have been programs available for some time, if I am not mistaken, to assist farmers to diversify.

I will take the honourable senator's question and the letter, which he has read into the record, as representation and ask my colleague the Minister of Agriculture whether he has any comment to make, and, if so, I shall convey that to the Senate as soon as possible.

WESTERN DIVERSIFICATION

ALLOCATION OF FUNDS TO MANITOBA FOR MUNICIPAL INFRASTRUCTURE

Hon. Gildas L. Molgat: Honourable senators, I have a question for the Leader of the Government in the Senate relating to the Western Diversification Fund. I understand that that fund was originally set up at some $1.2 billion. The last figures I have for its distribution indicate that some $247 million of that had been allocated—not yet spent but allocated or approved—and of that $142 million went to British Columbia, $79 million to Saskatchewan, $23.3 million to Alberta and only $2.9 million to Manitoba. When one considers $247 million and only $2.9 million to the province of Manitoba, the minister will understand why I have some concern.

In addition to this, though, there is specific concern regarding the kinds of projects the government is prepared to accept. The case has been made in Manitoba that a number of areas require water supply projects before some of these centres can usefully utilize the diversification money. One town in particular, the town of Dauphin, has been putting some pressure on the government to get a decision in this regard, because it wants to proceed with a particular project. So far no decision has been made.

Can the leader indicate whether he knows if there will be a favourable decision and when we might expect that decision? As the matter stands, the province of Manitoba is not benefiting from this diversification fund.

● (1530)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I would want to look behind the statistics my friend has placed on the record to see exactly what they represent in the case of each province.

To some extent the expenditures by WDO do represent priorities identified by provincial governments. Senator Molgat is correct to say that in Manitoba some emphasis has been placed on what we would call, in a general way, "infrastructure" and that no decision has yet been made as to whether, or how, the Western Diversification Fund could properly be used for this purpose. This, generally, is the subject matter of discussions that are now taking place and that will be continuing between the Government of Canada and the Government of Manitoba.

Senator Molgat: Could the minister indicate when some of these decisions will be taken, because, quite obviously, some of these projects of infrastructure need a good deal of lead time. If they are going to be started this year, it will be important to have those government decisions, because they will probably not be able to take effect until next summer, at best, if they involve some major engineering projects.

Senator Murray: Honourable senators, I appreciate the point Senator Molgat makes, and I am sure that every proposal will be considered on its own merits and in the context of the mandate of the Western Diversification Office.

The general question is whether the municipal infrastructure does fit within the mandate the government and, indeed, Parliament has given to the WDO.

I cannot say when decisions will be made with regard to the projects my friend alludes to. That is a matter I will have to raise with Mr. McKnight. If he has any further information, I will be glad to bring it in.

CANADA-UNITED STATES FREE TRADE AGREEMENT

AVAILABILITY AND COST OF TEXT TO PUBLIC

Hon. Joseph-Philippe Guay: Honourable senators, with reference to some of the questions asked earlier today, I have a further question for the Leader of the Government in the Senate.

Can he tell us if, within the sizeable amount of money allocated for the promotion of free trade in Canada, any provision has been made to offset the cost of the printed text so that members of the general public who want to purchase copies of the Free Trade Agreement will not have to pay the excessive price that is being demanded? People in my area have complained that, if they want a copy of the agreement, they have to pay a relatively high price for it.

Senator Sinclair: It is $135.

Senator Guay: I am told by one of my colleagues that the cost is $135. Does the Leader of the Government have any comment in this regard?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The honourable senator is referring to the complete legal document with tables, appendices and so forth. I presume that, indeed, there is a price attached to that.

However, there are available to the general public many documents which summarize the treaty and its provisions in quite satisfactory detail.

Senator Guay: The honourable senator may be surprised to hear that some people who seem to have the time to read are not too happy about the fact that the Honourable John Crosbie did not read the entire agreement. Some people have the time to do so and would like to have the opportunity to read the complete text, not just what has been outlined in a small booklet.

Considering the large amount of money that has been allocated to the promotion of the Free Trade Agreement, could any consideration be given to reducing the cost of these texts so that, for example, senior citizens who have just retired can read these documents in their spare time?

Senator Flynn: Instead of taking sleeping pills.

Senator Guay: It would be advantageous if the general public were given an opportunity to read what is contained in that agreement.

[Senator Murray.]

Senator Murray: I shall convey my honourable friend's representations to the Minister of International Trade.

Hon. Philippe Deane Gigantès: Will the Leader of the Government in the Senate tell me how much he would sell the text of the Free Trade Agreement for without all of the attachments?

Senator Murray: Honourable senators, the document is priceless.

Senator Gigantès: Knowledge is dangerous; we must not propagate it. We must only propagate propaganda.

[*Translation*]

PRIVATE BILL

MONTREAL TRUST COMPANY OF CANADA—THIRD READING

Hon. Michel Cogger moved the third reading of Bill S-17, an Act to authorize the Montreal Trust Company of Canada to be continued as a corporation under the laws of the Province of Quebec.

Motion agreed to and bill read third time and passed.

[*English*]

CANADIAN EXPLORATION INCENTIVE PROGRAM BILL

SECOND READING—DEBATE ADJOURNED

Hon. James Balfour moved the second reading of Bill C-137, to provide for incentives to assist in financing exploration for mineral resources and hydrocarbons in Canada and to amend the Canadian Exploration and Development Incentive Program Act.

He said: Honourable senators, Bill C-137 establishes the Canadian Exploration Incentive Program, known as CEIP.

The Minister of Energy, Mines and Resources and the Minister of State for Forestry and Mines announced this program in Ottawa in May in order to provide adequate levels of exploration financing to junior mining and oil companies. With this funding these companies will continue to play a major role in the future development of minerals and our regional economies.

Flow-through shares have proven their worth. There are many new mines targeted for development today because of the flow-through share mechanism. Flow-through shares have brought economic well-being to regions of Canada that, without them, would have suffered economic disparity.

Since 1984 the government has endeavoured to strengthen the flow-through share mechanism. An extension of the period of eligibility to January and February made it possible to claim expenses for taxation purposes for the previous year so that vital winter drilling on frozen lakes and muskeg and movement of equipment would not be interrupted in midstream.

When he announced his tax reform package last year, the Minister of Finance retained flow-through shares, because he knew that with them industry would continue to explore Canada's mineral wealth. Subsequent development and mar-

keting of Canada's new-found resources as a result of this program will help bring economic prosperity to the various regions of this country.

However, the stock market crash of October 19, 1987, has made equity financing much more difficult, and particularly mineral exploration financing because of its high-risk nature. Also, for the mining industry, the effect was more dramatic because of the planned phase-out of the mining exploration depletion allowance, known as MEDA.

• (1540)

CEIP will provide funds for exploration, not just to the mineral exploration industry but also to the oil and gas exploration industry. An estimated $210 million of CEIP incentives will be available annually for resource exploration. That $210 million of incentives translates into $700 million annually for exploration, and up to 12,000 person-years of employment could be created.

For mining companies, CEIP begins January 1, 1989, the date on which the MEDA rate drops to 16 2/3 per cent, and October 1, 1988, for the oil and gas industry, that being the date the Canadian Exploration and Development Incentive Program rate drops from 33 1/3 per cent to 16 2/3 per cent.

Under CEIP, qualified companies will be able to claim 30 per cent of their eligible exploration expenses up to a maximum of $10 million in expenses per company per year, not as a part of the tax system but as a direct incentive payment.

The $10 million limitation ensures that the money is targeted to smaller companies. However, the limit of $10 million is still very generous, because, when you calculate a 30 per cent payment, an applicant can receive up to $3 million a year. This meets the requirements of most small company exploration programs. Although the 30 per cent is certainly more generous than the depletion incentive at 16 2/3 per cent, current market conditions justify a more generous program. MEDA has therefore been extended for individuals at its full rate of 33 1/3 per cent until December 31, 1988, to allow for a smooth transition to CEIP.

The 30 per cent rate for CEIP is guaranteed for two years, until the end of 1990, when it will be adjusted upward or downward, depending on the prevailing market conditions and the level of incentives that appears necessary to maintain healthy exploration.

Mineral exploration expenses that are eligible for CEIP include those incurred on primary exploration by qualified companies that are financed by companies that have issued flow-through shares. These are the same expenses that now qualify for MEDA and can be flowed through to investors. Oil and gas sector expenses that are purely exploratory and are financed by means of flow-through shares are also eligible.

Exploration companies or limited partnerships acting as their agents will apply for the incentives. In that way the government has ensured that the program reaches the same clientele that purchased flow-through shares before and brings approximately the same benefits that would have been provided by the earned depletion deduction at 33 1/3 per cent.

CEIP is accessible to both public and private companies. Because it is designed to encourage new investment capital for exploration, the regulations will be drafted to include special rules that ensure that only exploration activity financed by new equity qualifies. The regulations, which will contain the detailed, technical rules, will be drafted over the summer in consultation with industry and the financial community.

Most investors will find that CEIP offers greater benefits than earned depletion. Payment, too, will be just as fast, because firms will be able to submit applications four times a year through five new regional offices set up to administer the program.

Consultation with industry has been extensive as the government moved to strengthen the flow-through share mechanism. Since May 3, when the new program was announced, the Department of Energy, Mines and Resources has been in touch with representatives of industry, listening to their concerns. In general, industry response has been favourable to the program. Consultation will continue during the summer, when regulations will be drafted and the technical questions arising from our consultative process will be dealt with. I am sure that equitable solutions will be found to any concens and problems raised.

Honourable senators, this program is designed to maintain a balance between the oil and gas mining sectors with respect to opportunities to raise funds for much needed exploration, and it is complementary to the government's tax reform program. It is market-driven. Industry makes the decisions on where to explore. Investors make the decisions on the merits of the investment opportunity and associated risks.

CEIP ensures that outlying regions of Canada will continue to benefit from flow-through shares, and, when a part of Canada benefits, we all benefit.

Honourable senators, this bill has many technical and complicated clauses, which I submit could and should be pursued by the Standing Senate Committee on Banking, Trade and Commerce. I hope that this reference will occur expeditiously.

On motion of Senator Sinclair, debate adjourned.

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN)—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Macdonald (*Cape Breton*), for the second reading of the Bill S-16, An Act to amend the Criminal Code (protection of the unborn).—(*Honourable Senator Macdonald (Cape Breton)*).

Hon. John M. Macdonald: Honourable senators, I am pleased to participate in this debate in order to express my support for Bill S-16. However, before speaking to the bill, I offer my congratulations to Senator Haidasz for the very able and most impressive speech he delivered when he moved

second reading. That speech was certainly well researched, well reasoned, well delivered and very, very convincing. In my opinion, Senator Haidasz has performed a real service in introducing this bill at this time. I think he deserves and will receive the thanks of all of us who believe that life begins at conception and who deplore the killing of the unborn. It is obvious that Senator Haidasz recognized that the recent decision of the Supreme Court of Canada took away the little protection our law gave to those waiting to be born. If Bill S-16 should become law, it will give to those people conceived but not yet born the legal protection they need, the legal protection they deserve and the legal protection they should have.

Honourable senators, it may be thought that this bill is not necessary, as there is to be a government-sponsored bill concerning abortion brought before this session of Parliament. We do not know just what is to be in that bill, but from what information is available it is obvious that it will be some kind of compromise between the views of those who are opposed to abortion and those who advocate it. I certainly do not believe there is any room for compromise when the issue is life itself. And I do not expect that the proposed new act will provide those waiting to be born with the legal protection they require, the legal protection they deserve and the legal protection Bill S-16 would give them.

Senators may ask why I am of this opinion. I am of this opinion because it seems to me that, whenever a moral question is involved, there is either a lack of action or a lack of decisive action on the part of government. And the excuse given for such lack of action is always the same—that we live in a pluralistic society and that great care must be taken not to give offence to any minority group, no matter how small, that is part of that society. Indeed, it sometimes seems to me that more consideration is given to the views of minority groups than to the views of majority groups.

In any event, as a consequence of this attitude on the part of the government, I do not expect that any government bill dealing with abortion will give the unborn the legal protection Bill S-16 would give, or, indeed, anything near that protection.

I believe Bill S-16 serves a most useful, and indeed necessary, purpose, even if it should not become law. It serves the very necessary purpose of proclaiming at this time in strong and certain terms that from the moment of conception the unborn acquire that fundamental right, that natural right, that God-given right to life—that right to be born and then to live out their lives as members of the human family.

Honourable senators, Bill S-16 will serve another useful purpose. It is this: When a government-sponsored bill is made public, we can then compare its provisions with those of Bill S-16. Taking Bill S-16 as our standard, we will be able to see if the government has sponsored a weaker or more permissive bill, one which violates the moral principles and moral standards on which our laws should be based. We will be able to see what, if any, concessions have been made to satisfy the so-called minority groups in our pluralistic society. I say again that it seems to be a dismal fact of political life that, in the anxiety to avoid offending any minority group, the rights and principles of majority groups can be sacrificed.

● (1550)

Honourable senators, it is not my intention to quote medical authorities to prove once again that life begins at conception. In any event, I could not hope to be as learned or as convincing as Senator Haidasz on that subject. However, I do recommend, if you have not already done so, that you read the speeches given in the great debate which took place in this chamber on the subject of abortion in the month of May 1969. I especially recommend to you the speeches given then by the Honourable Joseph Sullivan and the Honourable Lionel Choquette, among others. I would also commend to you an address given in Ottawa in January 1971 by Doctor Heather Morris. Personally, I am greatly impressed by that address. I have read it several times and have always found it to be most informative. It is a brilliant address and is a strong and convincing proof of her belief and conviction that life begins at conception. Certainly, I think she proved her point beyond a reasonable doubt. Indeed, she went even further. She also answered the arguments put forward by those advocating abortion. She not only answered such arguments; she demolished them. It is a fairly long address—too long to quote, but I want to quote a small part of it. She said this:

> Those of us who seek to protect the human who is still too small to cry aloud for its own protection have been accused of having a 19th Century approach for life in the last third of the 20th Century. But who, in reality, is using arguments of a bygone century. It is an incontrovertable fact of biological science—make no mistake—that from the moment of conception a new human life has been created. Only those who allow their emotional passion to override their knowledge can deny it. Only those who are irrational or ignorant of science doubt that when a human sperm fertilizes a human ovum a new being is created. A new human being who carries genes in its cells that makes that human being uniquely different from any and every other human being and yet undeniably a member, as we all are, of the great human family.

She added these words:

> All the fetus needs in order to grow into a babe, a child, an old man, is nutrition and a suitable environment. It is determined at that very moment whether the baby will be a boy or a girl: Which of his parents he will look like, what blood type he will have, his whole heritage is forever fixed.

Honourable senators, I certainly recommend to you the reading of that address. I am sure you will find it, as I did, both interesting and instructive. I would also recommend that you read, if you have not already done so, the press release of the Physicians for Life, given on February 9, 1981, at the National Press Club. I will quote just the opening paragraph:

> We Canadian physicians for life and active members of the Canadian Medical Association count ourselves among those who are becoming increasingly impatient with the

> unrelenting way those who wield power in our society appear to be moving towards the devaluation of human life.

Honourable senators, that was said in 1981. I believe an even stronger statement could be made today. In my opinion, not only is our society moving towards a devaluation of human life but it has already done so. It cannot be said that our society values human life when over 60,000 abortions were carried out in Canada in 1987.

You will notice that when speaking of this modern massacre of the innocents the term "abortion" is always used. It avoids using a harsher and more factual term. Let's stop playing on words. Let's face facts and acknowledge that in 1987 some 60,000 small, tiny human beings were killed in Canada—probably in a brutal and violent manner.

I do not think it can reasonably be denied that there has been a devaluation of human life in Canada over the past number of years. A great many people no longer acknowledge or value life as the great gift of the Creator. Indeed, many no longer even acknowledge life to be a fundamental right; yet it is the greatest of all rights. Without that right there would be no point in having other legal, man-given rights. Similarly, there would be no point in having laws to protect property or civil rights. If that fundamental right be denied, then no man-given right can possibly be secure by law.

Honourable senators, I sometimes wonder how people react in matters concerning children. Sometimes on the television we see pictures of children who have been injured or abused in various ways. Our reaction to such pictures is swift, sure and immediate. In great indignation, demands are made that these unfortunate children be fed and helped at once. Yet there is no such indignant response to the killing of the unborn under the name of abortion. The reason for this lack of response is that the actual killing of the unborn is not shown on television; so there is no emotional response. I have no doubt that, if the television showed the actual abortion, with its results, being carried out, there would be an instant emotional response. However, when emotion is not involved, when reason alone is involved, then the reaction takes longer, and that is what has happened in the abortion issue.

Those who are in favour of abortion often claim that it is not the taking of a human life. They claim that human life does not begin at conception but only at some unknown time thereafter. I do not understand such an attitude. I do not think it is either logical or reasonable. Surely it cannot be denied that the fetus is the offspring of a human being. Surely it cannot be denied that the offspring of a human being cannot be anything but human, and, since it is a human offspring, it must automatically be human. Indeed, there is no way that the offspring of a human being can be anything but human. While it is customary to call that offspring a fetus, we have every right to call it a child or a person. There is an old saying to the effect that the "more or less" of a thing can never determine what that thing is. It can never be determined only by its size or age. A crumb of bread has as much right to be called bread as a loaf of bread has. A drop of water has as much a right to be called water as an ocean has. A child has as much right to be called a man as an adult has, and a human offspring has as much right to be called human at any stage of its development inside the womb as a human offspring has at any stage of its development outside the womb.

Honourable senators, perhaps I have said enough to show my reasons for giving my support to Bill S-16 and to justify my opposition to abortion. However, there is another aspect of this question which deserves some consideration. It should be a matter of real concern to us when our legal system is used to relax or abolish the protection it gives to persons or groups of persons in our society. Our legal history tells us that our laws have evolved and developed over a great many years so that our legal system could protect those under its care as circumstances changed our way of life. It cannot reasonably be denied that the first and foremost duty and responsibility of our legal system has been, and still is, the protection of human life—all human life. And it follows from that duty that the legal system has a special responsibility to defend the weak, the young, the old, the defenseless and the helpless. Certainly, there can be no one more helpless than those waiting to be born.

I think on the whole, in spite of all its defects, our legal system has tried to fulfill its obligation in that respect. I believe that fundamentally it has been motivated by the noble principle that its prime duty has been to protect and safeguard human life and that all other rights protected by law are secondary to that great right to life. I also believe that Bill S-16, or a similar law, is a necessary development of our legal system in order that it may continue to fulfill its greatest responsibility—to protect human life.

• (1600)

Honourable senators, I oppose abortion because it is my profound conviction that life begins at conception and that to destroy that life is deliberate, cold-blooded killing. I believe abortion to be a most serious violation of the moral law, as I believe the commandment "Thou shalt not kill" is as valid today as it was when God gave it to Moses. Consequently, I fully support the passage of Bill S-16.

I close my remarks by adopting as my own the following words used by Senator Haidasz. They are:

> I urge honourable senators and I urge our government to take up this challenge of protecting the unborn human being with unrelenting determination, perseverance and responsibility. This will be our greatness as a nation and our contribution to the dignity of life, the fundamental and ultimate human right from which will flow harmony and justice in our society.

Honourable senators, I am pleased to support the passage of Bill S-16.

Some Hon. Senators: Hear, hear!

Hon. Sidney L. Buckwold: Will the honourable senator accept a question?

Senator Macdonald: Certainly.

Senator Buckwold: You have given a very impassioned speech reflecting your personal conscience. Some of us do not agree with what you have said today. My question is one of clarification on one of your major points. You repeated several times that "the rights and principles of majority groups will be sacrificed because of our concern for minority groups." Every poll I have seen from across the country on this question of abortion—and I am talking now of major, responsible polls—indicates that quite a large majority of Canadians support some form of the right to abortion under certain conditions. Yet the honourable senator has indicated that the law allowing some type of abortion on occasion is a manifestation of the pressure of minority groups. Will the honourable senator clarify what he means by that statement?

Senator Macdonald: I see the honourable senator's point. First, I do not accept his statement that the majority of people accept abortion. I understand that under this legislation there are certain circumstances, medical and so forth, in which abortion is permitted, and that is perfectly all right. However, generally speaking, I do think that for our society to accept the viewpoint of any minority that means that the rights of the majority could be sacrificed. On the other hand, if we are the minority, then we should be given more consideration.

Senator Buckwold: The honourable senator and I seem to differ on a fundamental point, and that is the question of the minority. The honourable senator has said that he does not believe my point about the majority of people supporting abortion. I would suggest to him, and to others who might think like him, that, if he were to take a poll of Canadians across the country, particularly of Canadian women, I am sure he would find that quite a majority of them do not endorse his particular view.

Senator Macdonald: I do not accept the honourable senator's premise, and I do not agree that a question of moral principle can be decided by polls.

On motion of Senator Guay, debate adjourned.

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE ADJOURNED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Neiman, seconded by the Honourable Senator Cottreau, for the adoption of the Twenty-First Report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei, with two amendments) presented in the Senate on 25th May, 1988.—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, we have before us the report of a committee on a body which calls itself, to put it briefly, Opus Dei. I do not agree with what Opus Dei is trying to accomplish by having Parliament sanction its legal existence in Canada. It already enjoys a legal recognition under the laws of some provinces, and in provinces where it does not have that so-called legal recognition, licence, permit—call it what you wish—it may apply for such. It is another ball game for that institution to come before the Parliament of Canada to seek legal recognition by way of a bill, for reasons already outlined by our former colleague, Senator Jean Le Moyne, and our colleagues, Senator Hébert and Senator Gigantès, who followed the scrutiny of that legislation and of some witnesses much more closely than I did, mainly because I had quite a bit of work with the Senate Fisheries Committee at the time. Otherwise, I would have gladly attended all those meetings.

For reasons invoked by these honourable colleagues and by others, including hard-working and long-standing members of the Legal and Constitutional Affairs Committee, and without repeating what has been said, and repeated before the association of that group with the repressive, extreme right-wing Franco régime—their search for absolute power under the counter, so to speak; their propensity not to accept or recognize the equal status of women—for these and other reasons I cannot support this legislation.

I believe the committee brought forward a very useful and enlightening report. Rather than suggest to this house that all was clear and limpid with Opus Dei, it brought back a report that raised more questions. I believe that still more questions ought to be raised and that more witnesses ought to be examined. I would certainly support a motion to have the report sent back to the committee. We would not have to, but we could instruct the committee to hear more witnesses. For example, I would be interested to know why the Roman Catholic Church authorities in Canada have not come out fully in support of Opus Dei. I would like to know why some bishops accept Opus Dei in their dioceses while others categorically refuse to admit them into their dioceses. I would like to know why it is that church spokespersons, following the recent exercise on laity in Rome, have expressed grave concern about their role within the Roman Catholic Church, which is my church, and why they have raised grave questions as to their activities in areas of the world where democracy is not known to reign, such as in South America and Central America. Strange deeds have taken place, strange acts have been committed, for which we have no answers.

• (1610)

I do not think it is within the Canadian democratic tradition to give the seal of approval to a body which should be condemned for the way it operated under the Franco régime and for the way it continues to operate in many political jurisdictions throughout the world.

It operates en catimini. Nobody knows what Opus Dei does. They say they are not a secret society. The Italian Parliament has examined that aspect. It all depends on how you want to define secrecy. This question should go beyond the interest of Roman Catholics themselves, because these people say that they welcome people of all faiths. They proselytize. They say

that they welcome just about anybody. However, they do not give equal status to everyone. They are highly structured and autocratic. They take their marching orders from a cardinal direct from the Holy Roman See and yet they want a licence to operate in Canada, without telling us, beyond the very general terms of wanting to save souls, exactly what they want to do in Canada.

I can understand some of the Canadian bishops, perhaps not knowing sufficiently about them, wanting them to work in some of their dioceses because of the defections within the church in Canada. Priests are hard to come by. Parishes are without their servants. The numbers are dwindling, and it is a real problem.

On the other hand, however, the Catholic Church in Canada ought to let legislators know, once and for all, directly, whether they support Opus Dei and whether they subscribe to the past and present association of Opus Dei with some questionable political régimes. I am not prepared to take the word of the Vicar General for Opus Dei in Canada nor of their legal counsel.

Honourable senators, I will stop speaking at this point, but for these and many other reasons I hope we can come to some agreement, somewhere down the line, to refer this bill back to committee so that we can obtain complete and open answers to many of the questions that have been put in this house by a number of senators.

On motion of Senator Lang, debate adjourned.

• (1620)

STANDING RULES AND ORDERS

TWELFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Committee on Standing Rules and Orders (Minutes—committee meetings) presented on Tuesday, June 28, 1988.

Hon. Gildas L. Molgat: Honourable senators, many of you will be aware that the Standing Rules and Orders Committee has been meeting for some time regarding the ways and means of providing more information as to the work of senators. A number of you will be aware that approximately every year someone totals the attendance record that appears on the front of our *Minutes of the Proceedings of the Senate* and thereby determines what senators are doing, which, in fact, is not a proper reflection of the work of the Senate or of individual senators. Their names may not appear there, but they may, quite legitimately, be occupied elsewhere on Senate business. Therefore, while this proposal is not earth-shattering by any means, it is an attempt to provide more information.

In the *Minutes of the Proceedings* we would print the committees that are meeting during adjournments and also meeting outside of Ottawa so that there would be a regular record in the *Minutes of the Proceedings*, and anyone wanting to seek that information would have it readily available. If the Senate agrees to that, from now on that practice will be followed. It is the recommendation of the Standing Rules and Orders Committee, and I move that the report be adopted.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Molgat, seconded by the Honourable Senator Neiman, that this report be adopted now. Is it your pleasure, honourable senators—

Hon. Duff Roblin: Perhaps I was not listening as attentively as I should have been, but I am not quite clear what committee meetings will be reported. Is the proposal to report attendance at committee meetings only if they are out of Ottawa and only if the Senate is not sitting, or is it intended to include the attendance at all committee meetings? If I heard Senator Molgat correctly, it is only to report the attendance at committee meetings outside Ottawa or when the Senate is not sitting. What is the rationale for excluding attendance at the other committee meetings?

Senator Molgat: The intention was that, if the committee meetings are being held, for example, today, presumably the senator will have been in the Senate and his name will be appearing there. It is an indication of committees that are meeting outside the normal sitting days of the Senate and outside Ottawa; in other words, when senators are not available or there is no record of their presence.

Senator Roblin: Would it not be reasonable to consider reporting the names of senators who are not in the Senate but who have legitimate reasons for being absent? In other words, if you are trying to establish the seal or the conformity of senators to the rules on attendance, perhaps it would be advisable to cover the waterfront.

Senator Molgat: Yes. Honourable Senator Roblin, I am very pleased to have your support in this matter, because we are looking at further measures. This is purely a temporary step that we are proposing. We were not suggesting that names would be listed, but simply that such a committee had sat. For example, in the past two weeks the Fisheries Committee had a series of meetings in New Brunswick, and we would list that the Fisheries Committee had met, and so on.

We have further proposals, Senator Roblin, that we will be coming forward with shortly in a more comprehensive report on the attendance of senators. In fact it is before the Standing Rules and Orders Committee now. At our meeting tomorrow afternoon I hope we can make some further progress in that regard. It might be a tentative proposal to begin with, but only to achieve some means of better record keeping.

Senator Roblin: I hesitate to pose a further question to my honourable friend, but I take it that his present proposal does not include listing the names of the people who are at the committees.

Senator Molgat: No.

Senator Roblin: Just the fact that the committee has met. Thank you.

Regarding my comment on the other aspects of the reporting of activities of senators, I reserve my right to give that

consideration. I am not by any means offering a blanket approval of what my honourable friend may have in mind.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Molgat, seconded by the Honourable Senator Neiman, that the report be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

● (1630)

STANDING RULES AND ORDERS

THIRTEENTH REPORT SENT BACK TO COMMITTEE

The Senate proceeded to consideration of the thirteenth report of the Standing Committee on Standing Rules and Orders (Committee Reports on Bills) presented on Tuesday, June 28, 1988.

Hon. Gildas L. Molgat: Honourable senators, the thirteenth report of the Standing Committee on Standing Rules and Orders refers essentially to Senate rule 78(4) and rule 80. The problem is that a practice has slowly evolved by which reports from committees studying bills have tended to include much more than the recommendations regarding the bills. This poses some problems for the Senate, because rule 78(4) says:

> 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.

Imagine a situation in which a report on a bill is presented without amendments, but with a number of recommendations and observations. If we follow rule 78(4), those observations and recommendations are automatically accepted without debate and without any opportunity to voice any dissenting opinions.

In order to correct this anomaly, our proposal is that the reports of committees studying bills shall not include background information, observations or recommendations, but simply the report on the bill itself. Then, if the committee has decided there should be recommendations or alterations, the chairman of the committee will make those in his comments on the report of the committee. That will not prevent those recommendations from coming forward, but it will get us around the problem we would otherwise have with rule 78(4).

Some honourable senators may say that we could get around this by changing rule 78(4) to allow for debate. The problem then is that we would be going against the practices of Parliament, both here and in the other place, and against the authorities of Parliament. *Beauchesne's* is clear in that regard. I am referring now to citation 783 at page 235, which states:

> There is no authority that a committee of the House, when considering a bill, should report anything to the House except the bill itself.

That procedure is clear. I might add that we could find no precedents in this chamber, but there are precedents in the other place. On June 13, 1984, there was a report of the Standing Committee on Agriculture in the other place which recommended certain things to the government. The Speaker ruled the report out of order, based on *Beauchesne's*. There are two different citations. The first one is:

> A committee is bound by, and is not at liberty to depart from, the Order of Reference. Bourinot, p. 469.

The next citation is:

> In the case of a committee upon a bill, the bill committed to it is itself the Order of Reference to the committee, which must report it with or without amendment to the House.

Based on precedent, we should leave our rule 78(4) alone and, rather, we should establish the practice that committees reporting on bills do not include in their reports anything except the bill itself and, if there are amendments, simply the amendments. All other matters should be done by speech by the representative of the committee.

We recommend that this practice be followed henceforth in the Senate.

Honourable senators, I move the adoption of the report.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Molgat has explained the situation very well in the first half of his report. In the second half of his report, one of the paragraphs says:

> Any background information, observations or recommendations respecting a bill that is reported by a committee may be tabled separately by the committee Chairman and printed in the final issue of the committee proceedings on the bill.

That is somewhat more than the speech report of the committee chairman, which Senator Molgat mentioned. I certainly favour the printing. There are occasions when committee members—government supporters—have been known to oppose certain positions taken in committees. That dissension was sometimes noted in the committee report. If that is to be the way it is to be done now, I can see merit in it.

There might be merit in printing the comments or observations or proceedings in the *Hansard* of the day in which the bill is reported. I notice that this particular suggestion talks about a separate document tabled by the committee chairman and printed in the final issue of the committee proceedings—not in the Senate *Hansard*. Has consideration been given to printing it in the *Hansard* or in the *Minutes of the Proceedings of the Senate* so that it would be more accessible to members of the public who might be interested in the particular bill?

Senator Molgat: The proposal of the committee is that this would be in the hands of the committee making the report. If the committee wished to instruct the chairman of the committee to ensure the tabling of the report, then that would be in order. It would then be up to the Senate to accept it or not accept it.

[Senator Roblin.]

Our proposal is that that would be a mechanism that would be available. I am sorry if I did not mention that in my comments. I should have, because it is specifically part of our report. There should be a mechanism. It would not be compulsory, but it would be up to each committee to so instruct the chairman.

Senator Doody has touched on a very pertinent point, and that is the question of dissenting opinions. A very real reason why we cannot have observations in the report of the committee itself is that you could end up by having a statement and then a dissenting opinion. Under rule 78(4), we would automatically be accepting both if we stayed with the present practice. Senator Doody emphasizes more clearly why we need to adopt this new practice.

Hon. Duff Roblin: Honourable senators, may I ask my honourable friend if he has considered fully the point that he has been discussing now?

I appreciate the fact that the standing rule in most parliamentary bodies is that committees do not include minority reports. It is the report of the committee, and what the minority might think about it is really not recorded in that report.

I have noticed in my experience in this house that we have got into the habit—or we may always have been in the habit, as far as I know—of allowing the recording of the fact that there is a minority opinion that dissents from the majority. This dissent has been recorded in the reports that the committees make to this house.

If the Standing Committee on Standing Rules and Orders has decided that that is a bad idea and we should not allow it and we should revert to standard procedure, if I may put it that way, I would be glad to hear about that. On the other hand, the committee might say, "We do not intend to have it recorded in the report of the committee as such," but there is nothing to prevent people speaking to the report, particularly the chairman of the committee, and making that a matter of record.

The reason why some have thought that desirable is that, particularly when the government does not have a majority in this chamber, the government minority on committees has on occasion been quite anxious to make it clear that it did not support what a committee had done and would not like to have thrown in its face later on that it did not object when it had a chance. In other words, the minority had implicitly disagreed with what was going on. In order to make that disagreement explicit, the committee reports have for some time now, I think, made specific mention of the fact that not all members of the committee had agreed.

What is my honourable friend's view of that? Does he think that there is a mechanism which could properly be employed to record the fact that the committee's vote was not unanimous?

Senator Molgat: We have to differentiate clearly between reports on bills and other reports. The committee did not speak about other reports, such as those concerning an investigation or whatever. That is entirely up to the wish of the committee. There may or may not be dissenting opinions.

In the thirteenth report of the Standing Committee on Standing Rules and Orders we are dealing only with the procedure on bills. Therefore, on that point alone, there is agreement that we cannot have anything more than the rules and the precedents provide for. Therefore, the report of the committee would consist of simply reporting the bill with the following amendments, and then listing the amendments, or reporting the bill without amendment.

● (1640)

The other aspect of the report speech would then consist of additional comments. As I indicated, those could be made via a speech by the chairman of the committee and would then be open to debate. On the other hand, they could be tabled at the specific request of the chairman of the committee, and that could be decided in advance by the committee itself. In that way, anyone wanting to express a dissenting opinion could ensure that that opinion was included in the part of the report that would simply be tabled as a separate document, but would not be included in the report of the committee on the bill itself. Therefore, honourable senators, we must differentiate here between bills and other reports of committees.

Senator Roblin: Does my honourable friend think it advisable that this new procedure, which he is proposing for a secondary submission with respect to bills, be encompassed in our rules, or does he think that it can simply grow from experience?

Senator Molgat: No, our suggestion is that there is no need to change the rules; that the present practice provides for the possibility of doing whatever it is that we recommend. Therefore, there is no rule change proposed in our report. We are simply proposing that the Senate follow the procedure which really has been the procedure of the Senate in any case, but from which, over the years, we have slowly drifted away.

Senator Doody: Honourable senators, that brings me back to the point I was making in my original intervention. The committee report specifically states that comments should be printed in the final issue of the committee proceedings on the bill.

Senator Molgat: Yes, if it is so requested.

Senator Doody: To repeat:

> Any background information, observations or recommendations respecting a bill that is reported by a committee may be tabled separately by the committee Chairman and printed in the final issue of the committee proceedings on the bill.

Hon. Jacques Flynn: It would need the approval of the committee.

Senator Doody: So what we are saying is that it may be printed in the committee proceedings, but that seems to me to indicate that the Senate does not want it included in the *Minutes of the Proceedings of the Senate*. However, by specifically including the committee proceedings as a route of

publicizing the observations or suggestions to ministers, or any ideas the Senate committee might have on improving the bill, instead of having them printed in the *Debates of the Senate*, they are printed only in the committee proceedings on request.

It may very well be that many people who are interested in that particular item will not see the committee's proceedings. However, they would be more apt to find references to those proceedings in the *Debates of the Senate* of the day covering the reporting of that particular bill. That is why I have a problem with the suggested change.

Hon. Ian Sinclair: Honourable senators, in view of the proposed change in the procedure, perhaps I might say something. If, for instance, there were observations emanating from a committee, I take it the committee would have to produce a separate document. Then, if those observations were to be passed on with the message sending the bill back to the House of Commons, a request would have to be made that those observations in the separate document be included in the message. Therefore, there would be two documents, and, if that separate document were not published in the *Debates of the Senate*, we would then be including in the *Debates of the Senate* the final committee proceedings, which I think starts to become quite complicated. Certainly, as a committee chairman, I would feel that what Senator Doody is saying would be helpful in attempting to deal with this matter.

Hon. Philippe Deane Gigantès: Honourable senators, perhaps my recollection is faulty, but there have been some Special Joint Committees of the House of Commons and the Senate. Your recommendation does not touch those committees—

Senator Doody: We do not have joint committees on legislation.

Senator Gigantès: For instance, honourable senators, there was a Special Joint Committee on Meech Lake which reported on the legislation and which printed the minority views.

Senator Molgat: The report to which you refer was not a report on a bill that was before the Senate. Here we are dealing purely with reports on bills that are before the Senate, where a committee is studying a bill and making a report back to the Senate. We are recommending that that initial report must only say that there are no amendments or that the committee is recommending the following amendments. It cannot go beyond that.

We are further recommending that any other observations be made directly by the chairman in a speech here in the chamber, in which case they would of course be included in the *Debates of the Senate*. Alternatively, a request could be made that the observations be added to that day's *Debates of the Senate*, and, if the Senate so agreed, then it would be within the power of the Senate to do so.

That procedure is quite regularly followed in the Senate. In fact, I think today we did that for two reports of committees that did not deal with bills. Those reports were printed as appendices to the *Debates of the Senate* of today's date. That is a normal request that can be made at any time.

[Senator Doody.]

Senator Doody: With respect, that really does not deal with the primary problem that Senator Roblin and I have both expressed, which is that very often you find that supporters of the government do not necessarily agree with an amendment that has been made by a committee. If the chairman of the committee is to be expected to report the dissatisfaction of the government supporters in his speech, I think that may be asking a little much of him, especially if he is very interested in the other side of the story or is a member of the other party.

It seems to me that a more neutral document could be tabled, as we have done with respect to other committee reports and bills in the past, saying simply that certain members of the committee disagreed with the amendment, or that supporters of the government voted against the amendment. That has been done in the past and has become a custom of this place.

I can well understand the advantages of simply reporting a bill with or without amendment, and I have no quarrel with that. However, the problem lies in devising a mechanism whereby the opinions of the committee can be placed on the table, without each of the nine or ten members of the committee standing up and making his own *mea culpa* and saying: "I was on the side of truth and justice in this case and someone else was not." It seems to me that the most informal, innocuous and non-controversial way of putting on the record the opinion of the committee in its components is to table a document during the report stage; that document would lay out any suggestions the committee might have for improving the bill, and/or recommendations to the minister, together with the item I mentioned a minute ago.

I wonder if the chairman of the Standing Committee on Standing Rules and Orders would consider looking at the problem in that light, and perhaps have his committee discuss the matter further.

Senator Sinclair: Honourable senators, as chairman of a committee, I hope that, when the procedure is decided upon, an aide-mémoire of perhaps one page can be sent around so that we will know what we are doing—at least more so than we know at the moment.

Senator Roblin: Honourable senators, I just want to express the sentiment that I feel this point is too important not to receive further consideration on the part of the committee. Let us sever the report, as is proposed to be done, and get back to the pure and simple mechanisms provided in *Beauschene's* and in other parliamentary institutions.

One of the big features of Senate committee work, in my opinion, has been the fact that in many cases, when we have not been prepared to dig in our heels and amend a bill, we have been prepared to make strong recommendations for change. I have found to a considerable extent that those recommendations for changes made in that way are not without some force and effect, and that ministers and others who are responsible for writing the laws in the first instance have not ignored them all. They have been useful. That procedure

has also provided an opportunity for any statement to be made about the division of opinion in the bill.

Therefore, I am rather anxious to know whether the committee would consider including that second report, or that the subsidiary document of comments, statements and so forth, in the record of the Senate, because, if they are just recorded in the records of the committee, they are not nearly so obvious, and perhaps there is the danger that they might not receive the attention that they ought to.

● (1650)

The Rules Committee seems to be saying to me: "Yes, it is a good idea. We will continue to allow the Senate to make recommendations that fall short of amendments, and we really do not mind the expression of differing opinions in the committee, but we will restrict that to *Hansard* of the committee meeting itself." That is not an unreasonable proposition, but I think it would be a more effective proposition if we were to allow those subsidiary reports to be made part of the record of the Senate during debate on the bill. It conveys more effect, and I think it would be more fruitful and satisfying to those who are not members of the majority, to have their views recorded in that way.

Has the chairman of the committee any objection to reconsidering that point to see whether it will command support among the committee members?

Senator Flynn: I have no objection to the idea of reconsidering this report, but I want to make it clear that I am on the side of the chairman, because this only deals with bills. If there is a report on a bill proposing amendments, it is obvious that anyone who was not in agreement would have the right to rise in the Senate and say that, and in any event that would be reflected in the vote on the report or the vote on third reading. There is no problem with that.

The dissenting opinions, when a report is on something other than a bill, will be shown in that document. I do not see any difficulty there, but I agree that a report on a bill has to be restricted to the bill, as the chairman of the Rules Committee has said, stating, "We recommend the bill without amendment", or "We recommend the bill with amendment." Then the dissenting opinions will show on the record of the vote taken on the report or on the vote on third reading.

I concur in referring the matter back for further consideration. What I objected to, and I think what has been objected to by others, is the fact that it should become a regular practice to have a separate document attached to the report on the bill. The report on the bill should restrict itself to reporting the bill with or without amendment. If we want this practice to be continued, the committees will have to ask the Senate to agree every time. But I think what we are now warning honourable senators against is the drafting of observations which take up a great deal of time in committee. That is not the problem of the committee; the problem of the committee is the practical conclusions on a bill. Any senator can say whatever he wants after that.

Hon. Finlay MacDonald: Honourable senators, I have just returned to the chamber, but I think I know what is being discussed. Since I did not hear the previous speakers on this side of the chamber, there is no way I can deliberately be inconsistent with their views.

Over the past four years it has been perfectly clear to me that the obligation of the government side is to support legislation. If a senator on the government side does not support legislation, Senator Phillips has an upstairs room where that senator can be made to cooperate.

Similarly, on the other side I have never seen such solidarity with respect to supporting whatever motion is put by a Liberal senator, including appeals on the Speaker's rulings. I have never seen the ranks broken. The only two gentlemen who exercise any kind of freedom in this house are the two cross-benchers, if you will pardon the expression.

As far as the report of a committee is concerned, I think it would be refreshing if it showed who voted against their own party, who showed some degree of independence and was at least respected for that.

We are not allowed to make a minority report; all we can do is say, "Some government senators disagree with the majority." The majority is always the same, the dissenters are always the same. That is a real pain in the neck. I look forward to reading the report of the committee and hope that Senator Flynn's suggestion and Senator Roblin's suggestion for reconsideration are taken into consideration.

Hon. John B. Stewart: Honourable senators, I think Senator Molgat and the members of his committee are quite correct in asserting that, when a bill is sent to a committee, all the committee is authorized to do is report that bill back with or without amendment, unless there has been a special instruction.

As I followed the discussion today I got the impression that we are to have in future two kinds of committee reactions to bills, one to be the legislative report and the other to be a second report, which seems to be more on the subject matter of the bill. If we are going to have a second report, surely there has to be some authorization given to the committee to make such a report. I do not think those kinds of reports are authorized simply by committing the bill.

Secondly, we have to have a practice with regard to what is done on the secondary reports. They are often little essays, and a motion to concur is a motion which is awkward to deal with, because one may not like the wording or the punctuation or the split infinitives, and so forth.

I suggest that the only kind of report we ought to concur in, in the case of a bill, is a report to be followed by an order of the house "that the bill be now read the third time", or the like, and that we should not have motions to concur in these little essays of observation, and the like.

My question is: Do we need some provision to authorize committees to make these subordinate reports, these ancillary reports, and what is to be the usage of the Senate when a

committee does, in fact, produce a secondary report? These are questions we have not yet answered.

Senator Flynn: A good question!

Hon. Richard J. Doyle: Honourable senators, I would ask why we are seemingly limiting ourselves to questions of dissent—that is, to opinions that may be contrary to the message in the bill. Very often they are what I suppose would be called in the courts "reasons for judgment", in which observations are made on the nature of the legislation and how accommodations might be made in the future to deal with the subject. We have had such reports in recent weeks, reports which I, for one, perhaps would not have endorsed if there had not been the expression of reasons attached. Surely, sober second thought involves more than saying yes or no and then letting it go at that.

Senator Flynn: In reply to Senator Doyle, any member of the committee, or any member of the Senate, is entitled to express his opinion, as is the case in a collegial court.

Senator Doyle: Is it not something a little more than expressing an opinion in *Hansard*, which I know is read with constancy by everyone in the other place? It is wanting to convey to the minister who is responsible for the legislation a message, and, other than running across the street or down the hall and telling the minister myself, I do not know how I can express that when it relates directly to a piece of legislation.

Hon. Eymard G. Corbin: Honourable senators, as a member of the committee, and perceiving that we do not seem to be developing much of a consensus today, and since Senator Molgat has moved the adoption of the report, I should like to suggest that the report be not now adopted—I am not making a motion—but that it be referred back to the committee and that the committee take into account all of the opinions, reservations and suggestions that have been voiced today.

We are a hardworking committee. We sometimes get a bowl of warm soup, which is appreciated. I suppose we could improve our performance and come back with a report that would be understandable and acceptable by all.

If necessary, I am prepared to make that motion, but I thought I would put it before honourable senators to see if there is general acceptance of it. As there seems to be, I therefore so move.

The Hon. the Speaker: It is moved by the Honourable Senator Corbin, seconded by the Honourable Senator Petten, that this report be sent back to the committee.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report sent back to Standing Committee on Standing Rules and Orders.

SCRUTINY OF REGULATIONS

TENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Joint Committee for the Scrutiny of Regulations, respecting statutory instruments made by certain statutory courts.

[Senator Stewart.]

Hon. Nathan Nurgitz: Honourable senators, I believe I can dispose of this uncomplicated and non-controversial matter in a couple of minutes.

The purpose of the report is to point out that the Standing Joint Committee for the Scrutiny of Regulations reached a decision that it would not review and scrutinize the rules made by certain statutory courts. At present the Statutory Instruments Act says that rules made governing the practice and procedure and proceedings before a judicial or quasi-judicial body established by or under an act of Parliament come under the review of that committee. The position taken by our committee was that parliamentary control of delegated legislation adopted by these courts is not entirely consistent with the principle of independence of the judiciary.

Honourable senators, I am sure I need not go into the whole question of why judges are different from any other kind of public servant. They are not politically accountable. We think that is a good thing. Keeping that in mind, the committee was led to the conclusion that to scrutinize procedural rules made, for example, by the Supreme Court of Canada or the Tax Court of Canada would be to interfere with their independence. On the other hand, we wish to advise that we will continue to review and scrutinize other quasi-judicial bodies, such as the National Transportation Agency, the Canada Labour Relations Board and others.

I think, honourable senators, that nothing further need be said with respect to this report, and I therefore move that the report be now adopted.

Motion agreed to and report adopted.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION

MOTION TO AUTHORIZE FOREIGN AFFAIRS COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-130—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C.:
>
> That the Standing Senate Committee on Foreign Affairs be authorized to examine the subject-matter of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America, in advance of the said Bill coming before the Senate or any matter relating thereto.—(*Honourable Senator Frith*).

Hon. Duff Roblin: Honourable senators, this Order stands in the name of Senator Frith, who is not present in the chamber. He is apparently not ready to speak on this matter at the present time. Therefore, with the permission of the Senate, I should like to make a few comments on this matter.

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

Hon. Senators: Agreed.

Senator Roblin: Honourable senators, as my name has been associated with the proposition that Bill C-130 should receive pre-study treatment by this house, I welcome the opportunity to make a few comments with respect to it.

This debate has, I think, been an interesting one, and I particularly appreciated hearing from my colleagues on this side, Senator Doyle, Senator MacDonald and Senator Ottenheimer, who, between them, have given us plenty of material to think about with respect to the proposition presented in this resolution.

When the Leader of the Opposition spoke on June 7, he was in one of his more conciliatory moods, because he endeavoured, I think, to be as persuasive as possible as to the merits of his proposition that pre-study was not required. I notice that he walked rather delicately around the arguments he presented in this connection, because I think he must have realized that they lacked somewhat the force of logic he usually brings to his comments in this chamber.

However that may be, I think his speech was as interesting for what he did not say as for what he did say. What does come through loud and clear to me at any rate is that he and his—if I may use the phrase in a not too pejorative way—pliant friends on the other side of the house have made it quite clear that they will decide what the Senate is going to do with respect to this matter of pre-study.

From the views expressed on the other side one would never think that pre-study was invented by the loyal opposition in this house. Its use and its application in days gone by have been warmly supported by many of the same senators who now find themselves prey to some doubts as to whether it is a good thing to do or not. Some of those who sit rather close to the Leader of the Opposition—for example, Senators Frith, Olson, Perrault and other chairmen of committees—have, in days gone by, commended to this house the practice of pre-study. Indeed, they ensured that it was followed in some respects.

However, the Leader of the Opposition, being the persuasive gentleman he is, has, apparently, pointed out to them the error of their ways, and they seem persuaded this time to think that what they did formerly was wrong and what they are going to do now is right.

I am not too sure that that is the correct way to view this question, because the purpose of pre-study was laudable before the advent of the Leader of the Opposition in his present position in this house and it is laudable now. The purpose, of course, was to enable the Senate to consider in good time complicated legislation; to have an advanced discussion or review of legislation before its formal introduction into this house; and to compensate, to some extent, in certain instances, for the tendency of the House of Commons to delay sending contentious and complicated bills to this chamber, usually as a result of the tactics being employed by the opposition parties in the other place. Then, having arranged for the delay, pressure would mount on the Senate to give prompt action to matters that, perhaps, required more careful consideration than the time allotted would allow.

Heaven only knows, if the opposition parties in the other place make good on their continuous threats to thwart the discussion of Bill C-130 in that place—as they have been doing quite freely for the last little while—delay may continue to be the fate of Bill C-130 in the other place. Thus, it appears to some of us that Bill C-130 is an obvious candidate for pre-study, which is a practical system to give ample time for sober Senate review and to respond to the obvious public interest in making the most efficient use of parliamentary time.

I interrupt my review of this matter for a moment to deal with a point raised by the Honourable Senator Hicks, who made it clear—to me at any rate—that he was not averse to the proposition that pre-study involves, but he wanted to make sure that in no case would it short circuit or eliminate the possibility of the Senate's dealing with pre-studied bills in the normal course when they eventually come through. I agree with him on that. I raise the point only to proffer the observation that never in my experience has pre-study prevented any bill, without the consent of the Senate, from being considered in the normal way when the time arose for that to be done.

However, the Leader of the Opposition does not like pre-study. I observe that the tobacco bill, Bill C-51, was the subject of a motion for pre-study in the Senate. Actually, that took place on October 1, 1987. The Leader of the Opposition adjourned the debate on that occasion and he has succeeded in his stalling action right up to the present time, because that item still stands on our order paper eight months later. I just wonder what Senator Frith would have thought of that had he been in a position of authority in this house at the time. He might have recommended the introduction of the Frith guillotine a little sooner than he did, although I am glad to see that he has placed that procedure in suspense for the time being, although he has served notice of it. If anyone in this house desires to adjourn a bill, or a motion for that matter, longer than he thinks is right, he has that thought in the back of his mind. Things being what they are these days, he has plenty of friends to help him in that regard.

Honourable senators, I think we could have pre-studied that bill and done no great harm—perhaps it would have been an advantage. It might, certainly, have saved some time in our procedures here, and I wonder what disadvantage would have arisen had we agreed to pre-study the tobacco bill, as was suggested last October. However, that is part of history. I am not sure whether the delaying tactic involved there would have been as desirable a course.

But even today we have another resolution on the order paper proposed by the Honourable Senator Wood, who is the Liberal spokesman on the language issue. She moved that there be a special committee appointed to pre-study Bill C-72, the language bill, and that motion has languished unmoved from the time she put it on the order paper last March to the present. I am not sure whether I detect the fine Italian hand of the Leader of the Opposition in making sure that that motion is not proceeded with. He may tell me his views on the matter one of these days, but, in any event, I suggest that he may have had at least an opinion on the matter.

In his comments to the house the other day, the Leader of the Opposition, while not backing very far away, backed some distance away from his adamant opposition to the proposition of pre-study. I think he relied on grounds other than that particular opinion he has of our procedures to oppose the pre-study of Bill C-130. He had a different reason, or a number of reasons, why he thought it would not be a good idea to go ahead now with the pre-study. In his statement he said to us:

> It may be a case that would normally deserve special exception, but I would ask whether there is any particular advantage at this stage in passing the motion.

At least we have reached the point where we may optimistically suppose that there might be certain circumstances under which he would agree to a pre-study of the bill, but this, evidently, is not one of them. He then went on to give the reasons why he felt it was not appropriate to deal with the bill in this way:

> Giving the committee a further reference at this time, in my opinion, will not achieve any additional benefit. On the contrary, it might distract the committee from pursuing its task of understanding the substance of the agreement by calling upon it prematurely to consider the bill itself.

Well, I am a little nonplussed by that, because he goes on further in his speech to say:

> In any event, the main point of my argument is that Senator Murray's motion is unnecessary, because we are doing as much in the committee at this time as if we were dealing with the bill or the provisions of the bill itself. The substance of Bill C-130 is the Free Trade Agreement.

Well, that happens to be my own opinion. I think the substance of the bill and the Free Trade Agreement are closely aligned. It seems to me that a pre-study of Bill C-130 at the present time would give added point and substance to what the Foreign Affairs Committee is doing now. In fact, I think the Leader of the Opposition is 180 degrees wrong by saying that they should not go together.

I consider, for example, the study we have been making of the dispute-settling mechanism, to which the Leader of the Opposition referred in his comments to the chamber. I compare that with the dispute-settling mechanism proposed in Bill C-130. What could be better than discussing the general principle of the dispute-settling mechanism, as we are doing, and relating that general proposition precisely to the legislation proposed in Bill C-130? It seems to me that it could be useful to consider them together. And, in the lambent phrase of Senator Doyle, the Free Trade Agreement and Bill C-130 fit together as the hand in the glove. That seems to be a reason—and a strong one—why they can be considered together usefully and productively—not the reverse, as the Leader of the Opposition has maintained.

Honourable senators, I believe that the substance of the Free Trade Agreement naturally flows into Bill C-130 and that to look at both documents side by side enables a better

understanding of the translation of the provisions of the Free Trade Agreement into Bill C-130. It is perfectly logical, practical and, in my opinion, desirable that the bill should be considered in the way I have described. But the Leader of the Opposition says "no", and that suggests to me that I might look elsewhere for the real reason that he does not want to go ahead with this pre-study proposition. His coyness in this matter suggests to me, after observing his *modus operandi* in this chamber, that the real motive may be something different from a sort of indelible dislike for the process of pre-study on Bill C-130 or any other bill. What he really wants to do—and he is doing it quite successfully—is to maintain control of the process in the Senate. If delays should suit his book, he wants to be able to stall. If pre-study circumscribes his freedom of action, we have no pre-study. We have a demonstration here, I think, of my honourable friend's use of parliamentary procedures to massage the processes of the Senate in a direction of which he approves. His ingenious parliamentary expertise is not to be ignored or belittled; it is considerable.

● (1720)

Make no mistake, the Leader of the Opposition is determined to call the shots on the progress of Bill C-130 through the Senate. He has the numbers for that control. If he says, "Delay", there will be delay. If he says, "Procrastinate", there will be procrastination. If he says, "procedural tie-ups", there will be procedural tie-ups, because he is, to use the Shakespearean phrase, the only begetter of parliamentary dodges. He will go as far as he thinks is productive in pursuit of his political interests in the way in which he controls the passage of this piece of legislation through the house.

However, there are limits that my honourable friend and his friends will impose upon themselves in this debate—whether they agree to pre-study or not. For example, I think that my honourable friend will not call, nor will his colleagues call, for the defeat of this bill on second reading. Obviously, if we are to believe what we hear about the convinced views of the Liberal Party in this country with respect to this bill; if we are to believe that they will tear it up if they get a chance, they have a chance. The first opportunity is to defeat the bill on second reading in this chamber. However, I do not think that they will be so ill-advised as to do any such thing. I think they will allow the bill to have second reading.

Senator Flynn: Not as brave, either.

Senator Roblin: I am not accusing him of bravery; I am accusing him of sagacity. He knows what he can and cannot get away with. He will be guided by his perception of the risks-and-advantage equation in the way he handles this bill. But I do not think that he or his colleagues will call for defeat of this legislation. I do not think they will.

I do not think that he will follow the practice that he has employed in other instances of diverting the bill from its normal channel, namely, to the Standing Senate Committee on Foreign Affairs, to send it to a special committee, or, indeed, to the Committee of the Whole in this legislature. I do not think he will do that either, because there are limits to his tactics.

I do not think he will try to split the bill. That is another intention of his that I noted with real interest. There has been a suggestion that this bill will be split into God knows how many pieces in order to fit them into the various statutes of this country that are being amended by this legislation. I do not think that he will do that.

Senator McElman: There are 27!

Senator Roblin: There are 27? Twenty-seven bills; wouldn't that be remarkable? I do not think he will do that. I think he is probably a bit nervous about the question of the necessity for a royal message with respect to bills of this kind. He has ignored that constitutional requirement in the proposal that he has already made to this chamber that Bill C-103 should be split in two—even though it involves, in the view of some of us, a tampering with the royal message. But I do not think he would dare do it for 27. He may do it for one, but he will not do it for 27. I do not think he will do that. But there is a good possibility that, when it does go to the Senate committee, we may be in for some extensive public hearings. I am not opposed to public hearings, provided they are done with some degree of realism and discretion, but we may expect that to happen. However, we will have to wait and see what he does, because with his colleagues on the other side he has the numbers.

He has the numbers to amend the bill, also. That is something that we should take some cognizance of. My honourable friend has the numbers to amend the bill. I am persuaded that the risks are considerable that he will attempt to amend the bill.

He knows well enough that this bill is not a bill like any other bill in the sense that it is a bill that confirms the treaty. The treaty involves an arrangement and agreement with people who are outside the ken of the Canadian legislature. If you want to amend treaties with a foreign power you must take into account the fact that that foreign power may like to amend the treaty with you. If we were serious about amending treaties; if we were serious about amending this bill in important particulars that go outside the ambit of the treaty that has been arranged, then we could expect that those on the other side might have something to say about their point of view. Things like the Auto Pact, and so on, might well be placed on the table once again, along with some other matters. But I think my honourable friend is well aware—

Senator McElman: Isn't that what Congress is trying to do?

Senator Roblin: Goodness knows what Congress is trying to do! If they try to go outside the ambit of the treaty, then we will have to make up our minds whether we accept it or not.

Frankly, having been to the meeting of the Canada-U.S. Parliamentary Association that our friend Senator Balfour referred to, and having been down in Washington recently talking with a wide range of opinion makers about what the American Congress was likely to do, I am of the opinion that in the long run, after a good deal of argument and hammering back and forth, no substantial variations will be made to that treaty which we would find objectionable. But it is a possibility, and I acknowledge the possibility. I simply say that whoever reopens the treaty—we or they—must expect the other party to be placed in the position where they can suggest some further changes in the treaty itself.

Therefore, amendments of a substantial character that go outside the bounds of the treaty and that might be imposed in this house with respect to Bill C-130 will not go far. That is probably one reason why the Leader of the Opposition and his friends will feel quite free to make those amendments. They know that, while their advice and consent is necessary to this bill, if they make amendments which subvert the treaty, when the amendments get back to the House of Commons they will not be acceptable and we will be placed in the position that we were in when we were at second reading—that is, whether we will approve the legislation, warts and all, either at second reading or when our reports come back from the other chamber when they have been considered there. You cannot amend the treaty in substance without opening the whole thing up, and opening up to American counters.

I will indulge in an opinion, which perhaps I should hesitate to do, because of all the unnecessary activities of politicians certainly making forecasts or prophecies is one. Circumstances have a habit of changing; winds have a habit of blowing from another direction, and one never really knows what the outcome of any particular initiative will be. But even if the Leader of the Opposition will not allow pre-study; even if he decides to approve it at second reading; even if he decides to send it to the Senate Committee on Foreign Affairs; even if he decides to amend it and even if those amendments get to the House of Commons; I predict that this bill will pass in substantially its present form. I predict that it will pass in this Senate with relative expedition after it is received here from the House of Commons. I do not know when the House of Commons will get through with it, but I would be rather surprised if we got it by the end of August or September 1. We would then be in the position of having to deal with this matter with some reasonable expedition, because, if we did not do so, we would be faced with the deadlines that have been laid down in procedures both in this country and in the United States.

We would be well advised to keep in mind that, until that final bill is presented to the U.S. Congress, we always have to have a reservation, because in this world, as I have suggested, things do not always go according to plan. I am hopeful that we will know exactly what the American Congress will do before the end of August or the beginning of September, which is a good time. If that happens, then in this Senate we will have an opportunity to deal with the bill expeditiously, because we will know what the Americans will do—which we should—and we will know what the House of Commons will do, which we can guess.

So, honourable senators, my proposition is that there is really no point in being hostile to this resolution for pre-study. The Leader of the Opposition's mission, I suspect—I hope I am not accusing him in an unkindly way, is to stall without appearing to stall. I am confident, if that is his goal, that it will be a bravura performance, "full of sound and fury" and of

parliamentary guile. However, in the end, I have confidence that this bill will be approved by the legislature of Canada. After all the stalling tactics in both houses have been exhausted, the Parliament of Canada will have a Free Trade Agreement, will have Bill C-130, and, if it does, I think we Canadians will be better off for it. Those are the reasons why I support this motion, and I urge my colleagues to do the same.

Hon. John B. Stewart: Honourable senators, I wonder if the Honourable Senator Roblin will deal with a question. I have several, but I shall confine myself to one. Senator Roblin said that Bill C-130 was introduced with a royal recommendation. We know that royal recommendations are required for bills that appropriate money from the Consolidated Revenue Fund. Would Senator Roblin tell us why a royal recommendation was thought to be necessary in the case of Bill C-130? I am wondering if, indeed, this is a situation where the royal recommendation was properly introduced; or is it a fact that the government now uses royal recommendations simply as a kind of halo which it puts around bills so that people will regard them as sanctified?

Senator Roblin: Honourable senators, I do not accept my honourable friend's description of the reason why bills require a royal recommendation. Bills require a royal recommendation because of the procedure in the parliamentary system, where the House of Commons has control of the purse. In order to make sure that that control is exercised in the proper way, the tradition of Parliament throughout the ages has been to have Royal Assent for bills that involve money. I shall not get into the technical arguments as to what is and what is not a money bill in terms of Royal Assent, because that is beyond the scope of my mandate at the moment. However, I will say this: the person who decides what bills will get a royal recommendation is the Speaker of the House of Commons. If the Speaker decides that a bill requires a royal recommendation, then it gets a royal recommendation. If he does not think that it needs a royal recommendation, then he does not allow it to be attached to the bill, because it would be unparliamentary.

I have a great deal of respect for the present Speaker of the House of Commons. I recall the way—one that is unique in our history—in which he was chosen for his task. I have observed the way in which he has conducted his office, and he is a man on which I am quite willing to rely.

Senator McElman: It is a good precedent for the Senate, too!

Senator Roblin: My honourable friend has a point there, but when we get around to reforming the whole of the Senate then I will think about reforming the Office of the Speaker of the Senate at the same time. In any event, it seems to me that the short answer is that the Speaker of the House of Commons decides what bills require a royal recommendation and what bills do not.

Senator Stewart: Honourable senators, I had hoped that I would not have to rise again. Senator Roblin has said that a royal recommendation is required for a bill that involves money, and then he refers to money bills. Of course, that is not the requirement of the Constitution Act at all. According to section 54 of the Constitution Act, 1867, royal recommendations are required in the case of bills that appropriate money. They are not required for taxation, as is often thought. They are not required for money bills generally, but for a specific kind of money bills: ones which appropriate money.

[Senator Roblin.]

Senator Roblin: Honourable senators, I am sorry my honourable friend did not listen to me as attentively as he usually does. I used the shorthand expression "money bills" and immediately followed that up by saying I would not get into a discussion on what constitutes a money bill or what bills require a royal recommendation, and I do not intend to get into one now. I simply say that, no matter how you describe these things or how they are defined, the Speaker is the one who rules on what does and what does not require a royal recommendation. In this case he has ruled that a royal recommendation is required, and I am quite willing to leave it at that.

Senator Stewart: I think the courts may have something to say on the matter.

Hon. Philippe Deane Gigantès: Honourable senators, may I ask the Honourable Senator Roblin whether I heard him correctly when he said that he was prepared to forecast—and he described it as a number one risk—that senators on the Liberal side of the house will not kill Bill C-130 and that Senator MacEachen, our leader, will not kill it? If that is the case, what is the fuss? What is the honourable senator complaining about?

Senator Roblin: Honourable senators, when I made my argument as to the viability of the pre-study, I gave all the answers that are necessary to deal with my honourable friend's question. Why does he not listen to me more attentively? He would learn something.

Senator Gigantès: If there is one member on the honourable senator's side of the house to whom I listen, it is the honourable Senator Roblin, because not only is he learned and interesting but he is elegant in his speech. I wish others would take lessons from him.

However, the honourable senator did say that he did not expect us to block the bill; that it would pass. So, really, what he is complaining about is some part of the process; and he did agree that the process, in any case, would be a legal process. He did not suggest that the Honourable Allan J. MacEachen would break the rules or do anything unparliamentary or undemocratic. The honourable senator simply does not like my leader's choice of process. However, if the honourable senator thinks that the end will not frustrate him, what is he complaining about?

Senator Roblin: My honourable friend is right; I am concerned about process. That is what the whole argument is all about, and how discerning of the honourable senator to recognize that fact. I simply have to say in defence of the Honourable Leader of the Opposition that never for one moment would I accuse him of illegality. He is much too astute to expose himself or his party to that, and I say so without

wishing to be offensive in this matter. I believe that he has a high regard for the traditions of Parliament and for the procedures of Parliament. I am simply objecting that he does not want to adopt a procedure which, I think, is expeditious in dealing with this piece of legislation.

On motion of Senator Petten, for Senator Frith, debate adjourned.

NATIONAL FILM BOARD

FILM ENTITLED "THE KID WHO COULDN'T MISS"—PUBLIC RESPONSE TO PETITION—ORDER DISCHARGED

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Marshall calling the attention of the Senate to the response of Canadians to a petition mailed out, calling upon Parliament to urge the government to act on the motion dealing with the production of the NFB film "The Kid Who Couldn't Miss."—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, having earlier today tabled my report, I would therefore ask that this order be considered discharged.

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

Hon. Senators: Agreed.

Order discharged.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, it is my understanding that there is agreement that all remaining orders and inquiries stand.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 3791*)

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

Twenty-ninth Meeting, Key West, Florida

May 5-9, 1988

Report of the Canadian Delegation

The twenty-ninth meeting of the Canada-U.S. Inter-Parliamentary Group was held this year in Key West, Florida from May 5 to 9. The U.S. side as hosts indicated that, with the Free Trade Agreement about to come up for consideration in the two legislatures, an unusual arrangement of the agenda was appropriate. Rather than divide into three committees for the first full day of meetings on the Friday, they proposed that the Group meet in plenary all day Friday and that the day be devoted entirely to discussion of various aspects of the Agreement. It was agreed that some time should be set aside on Saturday morning for discussion in Committees on other issues of importance to Canada such as acid rain and Arctic sovereignty and that the business meeting should conclude in plenary with a survey of election prospects in each country. In that last session, after a brief review of the political outlook in both countries, discussion gravitated spontaneously back to questions pertinent to free trade.

If close attention is an effective measure of interest in a meeting, the decision to devote a large portion of the time available to discussion in plenary of free trade was a good one. Attention was rapt throughout the three plenary sessions; all participants followed the proceedings closely and participated actively. Representatives of both sides with experience of several past meetings more than once expressed the opinion that they could not remember a more interesting, informative and relevant discussion.

From the Canadian perspective the attendance of only two U.S. Senators was a disappointment, but their absence was compensated for by the presence of a very strong representation from the U.S. House Representatives, including the chairmen of the Committees of Foreign Affairs, Agriculture and Government Operations, as well as the chairman-designate of the Judiciary Committee and the chairman of the sub-committee on Trade of the Ways and Means Committee.

The United States Delegation

The Senate

The Honourable Wyche Fowler, Jr., (Democrat, Georgia), co-chairman
The Honourable Ted Stevens, (Republican, Alaska) vice-chairman

The House of Representatives

Representative Sam Gejdenson (Democrat, Connecticut) co-chairman
Representative Dante Fascell (Democrat, Florida) vice-chairman
Representative Jack Brooks, (Democrat, Texas)
Representative Sam Gibbons, (Democrat, Florida)
Representative E. (Kika) de la Garza (Democrat, Texas)
Representative John LaFalce, (Democrat, New York)
Representative Timothy Penny, (Democrat, Minnesota)
Representative William Broomfield (Republican, Michigan)
Representative Frank Horton, (Republican, New York)
Representative David O'B. Martin (Republican, New York)

The Canadian Delegation

The Senate

Honourable James Balfour, (Progressive Conservative, Saskatchewan) co-chairman
Honourable E.W. Barootes (Progressive Conservative, Saskatchewan)
Honourable Henry D. Hicks (Liberal, Nova Scotia)
Honourable H.A. (Bud) Olson, P.C. (Liberal, Alberta)
Honourable Duff Roblin, P.C. (Progressive Conservative, Manitoba)
Honourable Richard J. Stanbury (Liberal, Ontario)
Honourable George C. van Roggen (Liberal, British Columbia)

House of Commons

Mr. Pat Nowlan, M.P. (Progressive Conservative, Nova Scotia), co-chairman
Honourable Lloyd Axworthy, P.C., M.P. (Liberal, Manitoba)
Mr. Ross Belsher, M.P. (Progressive Conservative, British Columbia)
Mr. Bill Blaikie, M.P. (New Democrat, Manitoba)
Mr. Don Boudria, M.P. (Liberal, Ontario)
Mr. Howard Crosby, M.P. (Progressive Conservative, Nova Scotia)
Mr. Jim Edwards, M.P. (Progressive Conservative, Alberta)
Mr. Jim Fulton, M.P. (New Democrat, British Columbia)
Mr. Darryl Gray, M.P. (Progressive Conservative, Quebec)
Mr. Ken James, M.P. (Progressive Conservative, Ontario)
Mr. Bill Kempling, M.P. (Progressive Conservative, Ontario)

Mr. Fred McCain, M.P. (Progressive Conservative, New Brunswick)
Mr. Paul McCrossan, M.P. (Progressive Conservative, Ontario)
Mr. John McDermid, M.P. (Progressive Conservative, Ontario)
Mr. Bob Porter, M.P. (Progressive Conservative, Alberta)
Mrs. Barbara Sparrow, M.P. (Progressive Conservative, Alberta)
Mr. W.C. Winegard, M.P. (Progressive Conservative, Ontario)

PLENARY

Agenda

1. Canada-U.S. Free Trade Agreement:

   - Procedures for ratification/implementation
   - Agriculture
   - Services, including financial
   - Automobiles
   - Energy
   - Investment
   - Dispute resolution — interpretation of FTA and review of anti-dumping and countervail cases
   - Culture
   - Intellectual property
   - Alcoholic beverages

2. U.S. Omnibus Trade Bill

After a brief word of welcome from the American co-chairman from the House of Representatives, the Canadian co-chairman from the House of Commons made some introductory remarks intended to compare the different ways that the free trade question was perceived in the two countries.

First, he noted that the Free Trade Agreement was probably the top item on the Canadian political agenda. This meant that the subject was approached with particular intensity in Canada and political parties and the public held deeply felt and divergent opinions. The situation in the United States appeared to be quite different. Free trade with Canada did not seem to be among the top items on the national agenda in this election year.

The second important difference resulted from the quite different dynamics of the two political systems. The traditions of the British parliamentary system with the accent on confrontation daily between government and opposition and the strong discipline exercised by political parties contributed to the polarization of positions and to early commitment to those positions. To make his point, he indicated that he could predict with complete confidence how each member of the House of Commons in the delegation would

vote on the enabling legislation when it was presented to the House of Commons; the party positions were already firmly entrenched. As a result Canadian M.P.s had come to the meeting to lobby their American colleagues and, depending on their party positions, either to seek U.S. support for the Agreement or to sow doubt in their minds. By contrast, in the American political system party discipline was not tight and Members decide individually how they will vote. Accordingly he supposed that U.S. delegates had come looking for information to help them to decide how to vote on their implementing legislation when it is submitted to the Congress.

The spirited discussion that took place in plenary did not follow the order identified in the agenda. Furthermore, some items were grouped (culture and intellectual property), and others were either not taken up (investment) or only considered briefly (alcoholic beverages). In general the co-chairmen allowed the debate to flow in directions that reflected the interests of participants.

Procedures for ratification and implementation

Both delegates placed considerable emphasis on the procedures and timing in the two countries for ratification and implementation of the Free Trade Agreement (FTA). Moreover, since it was early in discussion, reference was also made to related issues. In particular, the possibility of delays in the passage of the FTA due to linkage with the passage of the Omnibus Trade Bill was raised by the Americans. Indeed, the Omnibus Trade Bill item was effectively considered under this first agenda topic.

In the lively exchange on these two items, the first U.S. spokesman was the chairman of the Trade subcommittee of the House Ways and Means Committee, the committee with prime responsibility in the House for the FTA implementing legislation.

He reviewed the "fast-track" procedure, the process that obligated a vote within 60 working days after introduction of the implementing bill in the House (with a further 30 days in the Senate). No amendments would be permitted to this bill which must be voted "up or down." If approved, the bill would then be resubmitted to the Administration and would become law. He thought there was

little doubt the bill would be dealt with in good time since both the House and the Senate leaders had committed themselves in writing to bring the FTA to a vote before the end of the current legislative season.

Currently, the Ways and Means Committee was going through the confidential draft implementing bill line by line. No substantive changes in the spirit of the Agreement could be made during this process, but committees could specify or change the agency or mechanism to be used, for example. His subcommittee expected to finish its review by the end of May and after June 1 it would receive what he hoped would be a not-too-different version of the bill back from the Administration. This bill could spend 45 days in committees and then be discharged to the House floor for a maximum of 15 days. Asked when the legislation would cease to be confidential, the spokesman replied that the Administration would likely declassify it very soon. He added that his committee had an excellent relationship with the Canadian Embassy and its staff and he noted that a great many Canadian journalists kept a close watch on the proceedings.

U.S. delegates inquired closely as to the Canadian procedure for the passage of the FTA, asking whether the Agreement would, in fact, pass the Canadian Parliament, what obstacles stood in the way, how the provinces would react, and whether the United States was spinning its wheels "for naught" in view of the statement made by the opposition leader, Mr. John Turner, that if his party came to power, he would "tear up the Agreement".

In discussing the Canadian procedure, delegates on the Canadian side stated that, with treaty-making powers constitutionally vested in the executive, the Agreement could come into force on January 1, 1989 by virtue of the Prime Minister's signature alone as long as the U.S. side had ratified it. For Canada, the Agreement had the force of a treaty with all the obligations that entailed. However, because the Agreement covered a wide ambit of activity with some overlapping of jurisdiction, it was necessary to modify several existing laws, a Canadian spokesman said. The Government would be seeking Parliament's approval for the required amendments by submitting a bill to the House very shortly. While it was anticipated that the bill would pass the House, there would be strong opposition by the Liberals and the NDP parties.

As for the Senate, a Liberal Senator, noting that there was a substantial Liberal majority in the Senate, suggested several possible scenarios: the Commons might finish and pass the bill by the end of July, if it were introduced shortly. As the Government was nearing the end of its parliamentary mandate, it was possible an election might be called in the fall, although currently the polls were not propitious for the Progressive Conservatives. If the Government did decide to proceed in the fall, the election call would have to be made in August. The Senate would not likely have dealt with the FTA bill by then. However, if the election were postponed and it was perceived that the Senate was unnecessarily delaying the bill, the press and the public could become critical of the Senate. However, the Senate majority could declare that it was not prepared to pass the enabling legislation until the Government had received a new mandate and could try to force the Government to an election by saying it would be prepared to pass the legislation immediately after an election if the Conservatives were re-elected. On this point the Senator noted that in the recent House-Senate dispute over the pharmaceutical bill, polls indicated that even though the public supported what the Senate was proposing, they also thought that the Senate — as appointed, not elected Parliamentarians — should not hold up unduly the work of the Commons.

In the event of a Liberal or NDP Government resulting from an election, this Senator thought that there might be a major move by many Canadians to defend the Agreement, particularly since the whole Canadian business community was in favour. However it was realistic to suppose that a new government opposed to the FTA would probably want to go to Washington to renegotiate details. Another Liberal Senator commented very briefly that he did not think the Liberal majority in the Senate would frustrate the passage of the FTA.

Canadian opposition spokesmen told the U.S. side that the FTA was a major issue in Canada, that there was strong division and that there would be a bitterly fought battle. Normally, the Commons would disband on June 30 but the House would almost inevitably sit longer. Further, it was suggested there would be a spill-over effect into the Senate from the hammering that the opposition in the House would give the enabling bill in the various committees. According to recent polls, between 60 and 70 per cent of Canadians considered there should be an election on the issue. At this point, a U.S. Senator warned that if the Free Trade Agreement were not agreed to by Canada it "would set off a trade war" and in that process possibly "destroy Alaska".

On the subject of provincial implementation of the FTA, a Government spokesman said he thought there would be little problem. In any event, he said the GATT was already hitting provincial restraints of trade. As for Ontario and its restrictions on wine imports, the United States had a major instrument of retaliation — a threat to the entire liquor industry. Further, the recent study by the Senate Committee on Foreign Affairs on the subject of federal versus provincial jurisdiction indicated that the federal jurisdiction in making this Agreement probably could not be successfully challenged. However an opposition member reminded the group that an important judicial precedent had been established in favour of the provinces by the 1937 Labour Conventions case. Another opposition member pointed out that, in the newly elected Manitoba Legislature, a majority of members were opposed to the FTA.

Discussing the likelihood of the FTA passing the Congress, the impact on the legislative process of the U.S. election, and the extent to which the next U.S. government would be bound by it, a Congressman reiterated that the vote on the FTA would be completed this summer and would not be reversible. It was admitted that most of the American public had no opinions about the bilateral Free Trade Agreement, but, by contrast, a number of individuals, groups and associations were very well informed. As for Congress, an influencing factor would be how the President reacted to the Omnibus Trade Bill which had just been passed in the House and the Senate.

The Trade subcommittee chairman said he felt sure the Omnibus Trade Bill would become law this year, and sooner rather than later, since the Administration badly needed the broad negotiating powers under Article I, 8, (2), to conduct the multilateral trade negotiations. In fact, the President "was drooling" to get hold of this power. Moreover, if the President were to veto the bill he would hand the Democrats a very nice "fairness" issue for the election. Most Americans would find it only fair that workers should have 60 days notice before lay-offs or termination of employment since senior management normally has six months notice. For this reason, the President would sign it sooner or later. This spokesman also noted that most of what Canada had been objecting to in respect to anti-dumping and countervail had been dropped from the bill.

A U.S. Senator stated that a provision in the Omnibus Trade Bill (and in the Agreement as well) involving the export to Canada of 50,000 barrels per day of Alaskan oil contravened Article 1, section 9, clause 6 of the U.S. Constitution by obliging tankers with Alaskan oil to off-load in the ports of another state. The House Trade committee chairman agreed this part of the provision should not be included in the Agreement and that it would probably be dropped "by mutual agreement".

Several Congressmen noted that Congress had, so far, delayed the return of the Omnibus Trade Bill to the Administration. As the differences over this Bill might take time to resolve, and since Congress would not deal with the FTA until the Omnibus Trade Bill was passed, the FTA vote could be pushed later. The Senate had passed the Bill with three votes too few to override a presidential veto.

When a Canadian asked what would happen if the Omnibus Trade Bill had provisions contrary to those in the FTA, the Trade committee chairman responded "the last bill to pass is king." There was some discussion as to whether Canada would be specifically exempted from the countervail and anti-dumping provisions, but the spokesman said only that there was constant consultation between his subcommittee and the Canadian government on these subjects as well as on the dispute resolution provisions.

Dispute settlement

The meeting turned at this point to the dispute settlement item. The chairman of the Trade subcommittee opened discussion on the subject of dispute settlement by noting that the chapter 19 bi-national panels represented the linchpin of the Free Trade Agreement. He acknowledged that when negotiations collapsed after it had become evident that there was insufficient time to work

out a common subsidy system he had been asked to make suggestions. In response he had provided the germ of the idea of bi-national panels to replace domestic appeal courts. The idea had come to him in part as a result of his experience at the annual meetings of the Canada-U.S. Inter-Parliamentary Group where he had personally seen what could be achieved through candid discussion. He recognized that there were still important issues to be resolved with regard to the operation of the panels such as whether jurists should be paid from a common pool of funds so as to enhance their independence.

The chairman-designate of the House Judiciary Committee was the next to speak. While indicating that he expected the Committee to approve the proposed dispute settlement mechanism, he noted three concerns that had been raised in the United States.

1. Does the system of bi-national panels to replace appeals to U.S. courts violate the American citizen's right under the Bill of Rights to due process? This did not seem to be the case since the existing system of agency determination remained intact and the panels appeared to be a logical means to review their decisions.

2. Since some appointments to the panels would be made by Canada, would this provision conflict with the constitutional requirement that "officers of the United States" be appointed by the President by and with the consent of the Senate? He did not consider that panelists should be regarded as performing U.S. government tasks. Rather the panels were international dispute tribunals created by an international agreement.

3. Would the panels eliminate judicial review from the prescribed procedure for handling anti-dumping and countervail cases? He thought not since the imposition of a duty on imported goods is a foreign policy power falling within the responsibilities of the President and judicial power has traditionally not been paramount in that area.

Speaking personally, this speaker indicated that he generally supported the goals of the Agreement. Furthermore, in his current capacity as chairman of the Government Operations Committee, he anticipated that matters falling within that committee's competence would be handled expeditiously.

The lead Canadian speaker claimed that he perceived the main benefit of the bi-national panels to be a reduction in the time taken for the processing of appeals to anti-dumping or countervail actions, reminding the meeting that "justice delayed is justice denied". Another Canadian participant suggested that delay resulted mainly from the proceedings of the Commerce Department and the International Trade Commission, processes that would not be affected by the Agreement in its present form.

In responding, the chairman of the Trade subcommittee claimed that most of the problems between the two countries came from countervail and anti-dumping challenges and that within the United States there had been improvements. In the past cases had sometimes been pending for as long as twenty-five years. The Congress had become so frustrated with this situation that it had taken the drastic step simply of eliminating certain agencies. In his judgement the proposed arrangements would represent a substantial improvement over the current practice. It should work effectively because the systems of laws on anti-dumping and countervail were similar in the two countries even though some of the nomenclature was different. It would be possible to have several panels working at the same time, which should reduce delay. The result, he felt would be "a reduction in festering sores, which were generating distrust".

Culture and intellectual property

The discussion of culture and intellectual property was at times impassioned and occurred a day after the Honourable Flora MacDonald announced a new film distribution policy for Canada. It was notable that Members of all Canadian political parties, in spite of their differences on the FTA, came together on this topic.

The Canadian lead-off speaker described how Canadians, no matter where they stood on the FTA, consider themselves North Americans, but still distinct from Americans. The distinctiveness was evident in attitudes, history and the directions they chose. However, when it came to the foreign market share of Canadian-sold books, periodicals, English-language television and film screen time, Canada was under greater foreign domination and control than any other industrialized country. The figures for foreign market share were presented as 75 per cent in books, 60.5 per cent for periodicals, 71 per cent for English-language TV, 97 per cent for screen time, over 90 per cent for film distribution revenues and 89 per cent for sales of recorded music. Comparatively, foreign market share figures for Australia were 50 per cent for books and 80 per cent for films and recordings. U.K. figures were 15 per cent for books and 16 per cent for television programming.

The economic importance to Canada of its modest domestic market share was evident in the number of jobs created — 450,000 — and the $10 billion in annual revenues generated. More importantly, culture was part of the Canadian soul.

The Canadian spokesman mentioned some of the initiatives that have troubled the United States and led to charges from the U.S. entertainment industry and government of unfair trading practices. In dispute have been border broadcasting tax measures to direct advertising revenues to Canadian broadcasters, preferential postal rates for periodical publishers, the Baie Comeau book publishing policy aimed at restricting foreign ownership of Canadian publishing firms, the new film distribution policy and the lack of copyright protection for U.S. television programming retransmitted in Canada by cable or satellite.

Even though cultural industries strictly defined were excluded from the FTA, its impact on disputes in culturally-related industries would be felt in several areas: the dropping of the print-in-Canada tax deduction scheme, the policy committing the government to buy at fair market value any U.S. subsidiary in the book publishing field if forced divestiture were required, Canada's commitment to establishing a non-discriminatory retransmission right scheme by the time the FTA came into force and the elimination of the random deletion of U.S. television commercials on future Canadian cable networks. Commercial deletion would be "grandfathered" for existing cable networks. Postal rates were left untouched.

The previous day's film policy announcement in Toronto set out plans to create a film distribution fund of $85 million to help Canadian distributors in development and marketing and to provide $115 million for culturally significant Canadian films. Legislation would also be introduced to cover proprietary and non-proprietary film distribution rights in Canada. In the case of the former, new investment would be allowed in Canada for importation and distribution. For non-proprietary film distribution, no new investment would be allowed. As well, foreign takeovers of Canadian film distribution companies would not be permitted. The regime would be controlled by Investment Canada. The new policy's goal was to put Canadian enterprises on to an equal footing with U.S. companies and to strengthen the competitiveness and capacity for development of the Canadian industry.

The opening American speaker commented that there was some concern in the United States that Washington was "almost forced" to exempt cultural industries and the Auto Pact from the FTA, the sentiment being that without coverage of those major trade areas there was little of substance remaining in the Agreement. Another reservation was a suspicion that Canadian commercial interests were being cloaked in culture to protect them from U.S. competition. His impression was that Canadian political sensibilities had been adequately taken into account when the FTA was drawn up.

A second U.S. participant expressed satisfaction with the year-end deadline on retransmission rights and the elimination of the print-in-Canada tax deduction. However, the commercial deletion policy would remain an irritant and he questioned whether the new film distribution policy and the setting up of a discriminatory Film Products Importation Office would "fly in the face of the FTA".

A third U.S. delegate interjected that the proposed film policy could serve as a model for similar discriminatory treatment around the world and restrict American access to foreign markets. This led a Canadian participant to retort that the risk was minimal because Canada's situation was unique and would not constitute a precedent.

The chairman of the Trade subcommittee of the Ways and Means Committee noted that Congress was not hostile to Canadian cultural sensitivities but lobbying was fierce because "there's a helluva lot of money involved". While the dispute settlement mechanism could be seen as the linchpin that held together the FTA and made the deal possible, culture "could be the bomb in the whole agreement". While Canadians should not be blamed for not wanting more American culture — "sometimes we have too much of it too" — coping with the emotional issue would take restraint and statesmanship.

The Canadian lead speaker responded that any Canadian Government — Conservative, Liberal or New Democrat — would not be able to implement a Free Trade Agreement that did not exempt Canada's cultural industries. "Our culture is to us as national security is to the United States. It's that fundamental to our thinking." As for accusations of Canada taking commercial advantage of U.S. industries, he pointed out that the cultural policy did not in any way exclude American products. It was only trying to level the playing field.

When other American delegates suggested that commercial interests were spilling over into cultural areas, the Canadian chairman reiterated that the Canadian film industry was now over 90 per cent American-owned. Another Canadian underlined the point by noting that Canadian films averaged four showings a year in Canadian movie theatres and accounted for only three per cent of Canadian screen time. This figure prompted an American participant to ask: "What are these people complaining about then?"

"What is at stake", a Canadian Opposition MP said, "is the ability of Canadians to see themselves and their surroundings reflected in films, on television and in books and periodicals. Good Canadian films are being made that many Canadians will never see because they will never be shown in Canadian film theatres. Americans cannot imagine seeing places you know on screen being a novelty," the Canadian stated. "You already own 97 per cent. If you want to get touchy about the other 3 per cent, well . . ." Another Opposition Member reiterated that no other country was so dominated by U.S. culture as was Canada.

A U.S. Senator questioned where culture ended and technical expertise began as far as Canadians were concerned. A Canadian participant replied that cultural industries were clearly defined in the FTA.

The chairman of the U.S. delegation noted that it was difficult for Americans to appreciate the notion of a cultural giant "rolling over us". This led a Canadian MP to point out that, in fact, in the 19th century the United States had amended its copyright legislation to protect U.S. publishers from a flood of British publications, and that legislation had only recently been repealed.

A Canadian Senator joined the debate by recalling that when Canada felt compelled to use the Foreign Investment Review Agency, the forerunner of Investment Canada, to restrict foreign investment, he had not approved of the instrument, but recognized the problem. He suggested that American legislators should attempt to put themselves in the shoes of Canadians. "You people seem incapable of comprehending why 90 per cent (foreign ownership) should be a concern. Americans are worried by 5 per cent penetration of their economy by foreign capital. We're trying to do something about 95 per cent."

A U.S. delegate stated that American sensitivity to Canadian cultural concern accounted for the cultural industries exemption from the FTA. However, he said there was still "discomfort" with the policy and a worry that Ottawa was tackling the problem in the wrong way. He speculated that the new film policy could create an "administrative nightmare" for American companies. "Flora is going to create an awful lot of problems."

The U.S. Trade subcommittee chairman offered the assessment that the spirited debate on culture was the best he had heard during the many years he had attended Inter-Parliamentary Group meetings. "It shows we're all learning." But he added the hope that the legislation should not result in the emotional issue wrecking the FTA. He suggested that the long-term solution to curbing protectionist urges was a healthier North American economy — a goal that could be achieved with the co-operation of foreign investors. "If you've got a strong government you can tax hell out of foreign investment."

Agricultural issues

The agricultural provisions of the Free Trade Agreement was the first item to be taken up in the afternoon session. Discussion began against the background of an intervention made during the morning session in which the chairman of the U.S. House Agriculture Committee had expressed the view that the agricultural provisions would not be the cause of rejection of the Agreement. His committee had been "well consulted" and he expected their concerns would be satisfactorily accommodated in the implementing legislation.

The lead-off American speaker commented that some U.S. farm interests were critical of the Agreement. These included some grain producers who feared that Canadian imports would displace their product. He personally felt that the Agreement protected these farmers because tariffs were not due to be removed until agriculture subsidies in the two countries had been reduced to equivalent levels. He also mentioned the concerns of U.S. sugar producers who worried that Canada could become a pass-through for cheap sugar trading at low world prices. In his view, however, the Agreement had gone a considerable way to open up agriculture markets in both countries without creating major problems for any important group of producers. He anticipated passage of the implementing legislation unless a coalition, not now formed, were to coalesce.

The lead Canadian speaker suggested that the fact that there were some modest worries on both sides was the best evidence that it was a good Agreement. Confectioners and food processors in Canada were concerned, the former because they feared the access they now have to the U.S. market might be cut back and the latter who worried that their share of the domestic market might be eroded through American imports using cheaper inputs. He noted that the Canadian government had addressed these concerns by moving to end two price wheat which had increased the price of flour, providing for increased quotas for imports of U.S. poultry within the supply management system which would be channelled to the processors and by placing yogurt and ice cream on the Import Control List.

A second Canadian speaker acknowledged that opinions were divided among the farming community, depending on the product produced and the region being farmed. He considered that the growth of north-south agriculture trade to the present levels demonstrated the natural advantage of such exchange, which the Agreement would encourage. Unfortunately the U.S. Farm bill had created a

new set of problems and tensions and Canada had had to respond with a support program to protect Canadian farmers, especially from the export enhancement provisions of the bill. Canadian farmers were at a disadvantage in the current agricultural trade war because climatic conditions made it more difficult to switch crops.

Responding to a question as to how the United States would respond if Canada were to protect the domestic supply management system by replacing tariffs with quotas, the chairman of the House Agriculture Committee acknowledged that the term supply management was suspect in the United States. However, on balance he felt that agricultural trade between the two countries had been mutually advantageous as well as being significant. Moreover, the United States had some ingenious schemes of its own for managing markets and gave as an example the variable tariff on cantaloupe which fluctuated from zero to 35 per cent ad valorem, depending on the season. For these reasons he did not anticipate serious difficulty and he expected that the implementing legislation would not be resisted in his committee.

Trade in services, including financial services

The Canadian spokesman said that the terms of the Agreement regarding trade in services should represent a prototype to be taken into the Uruguay Round. Essentially it involved the extension of national treatment to services of the other country, which was the appropriate way to go since the two systems were rather different. Financial services — banking, insurance, trust companies and stock brokers — have been broken out separately from other service industries. In both countries extensive changes were being legislated to regulations regarding relationships with the financial communities; in the United States it had not yet been determined how far the process of deregulation would proceed.

He noted that there had been effective free trade in the field of insurance since 1903, with roughly equal dollar amounts of business being done by subsidiaries of the other country in both Canada and the United States. About two years ago the insurance industry of each country had decided to lobby for national treatment in the other country.

An American participant responded. He thought that support for the provisions in the service sector was quite widespread. He believed that economic necessity would force the United States to grant more powers to U.S. banks, but there was still some resistance in the Congress. It was unusual, he observed, to give powers to corporations of a foreign country before their domestic powers had been redefined, although the Agreement was serving to speed up the process of change in the United States. He did not expect the insurance industry in the United States to be integrated with other financial services as was happening in Canada because of its large size and effective resistance.

Automobiles

The American lead-off speaker noted that automobiles made up one-third of the trade volume between the two countries. One key condition in the FTA for U.S. auto producers would be the eventual elimination of Canada's duty remission regime. The Big Three automakers — General Motors, Ford and Chrysler — strongly supported the Agreement. The move to allow Canadians to import U.S. used cars was also positive. The main area of concern was among parts manufacturers on both sides of the border. Those who had not hewn out a market niche were concerned they might have to move across the border to remain viable until 1996, when Canada would terminate its duty remission regime based on production.

A Canadian MP said that, while critics in Parliament had been concerned that the FTA would "gut" the Auto Pact, the Agreement would, in the end, strengthen it. With the automobile market becoming increasingly internationalized, requiring at least 50 per cent North American content would buttress the North American industry. By the definition previously used, this figure actually amounted to 60 per cent North America value added, another MP pointed out.

An Opposition MP noted that the Canadian Autoworkers union was strongly opposed to the Agreement on the grounds that it removed Canadian safeguards. However, a Government MP contended that the autoworkers had been opposed to the Auto Pact when it was first established in 1964 and they had been proven wrong. The safeguards had been used only once to make up a Canadian content deficiency.

A Congressman noted that both Canadian and U.S. autoworkers were concerned that jobs would be lost on their respective sides of the border, yet both could not be right about the threat to their job security. But the Canadian Opposition trade critic contended that the tradeoffs in the FTA for the automotive industry need not be "a zero-sum game". Another problem, he contended, was the lack of an industrial adjustment program to cushion job loss.

Another Congressman noted that the devaluation of U.S. and Canadian currencies in relation to European currencies and the Japanese yen had vastly strengthened the North American auto industry. Hondas were now being exported to Japan from the United States.

Energy

Comments on the energy provisions of the Agreement ranged from expressions of general satisfaction to concerns over the uranium provisions, the proportionality clause and the possible future implications for Canadian sovereignty of the relinquishing of interventionist energy "levers" to help future governments regulate the economy in difficult times.

A U.S. Senator reminded the meeting that energy accounted for a substantial 10 per cent of bilateral trade. On the whole, the U.S. oil industry appeared satisfied with the Agreement. As for electricity, the provisions relating to the B.C.-Bonneville intertie seemed positive. The impact on U.S. uranium producers of the lower-priced Canadian uranium was the most difficult aspect of energy provisions. Asked about the unconstitutionality of the FTA provision respecting Alaskan oil, this Senator stated that he understood Canada had already agreed to the deletion of the unconstitutional clause from the Agreement.

A Canadian spokesperson, the chairperson of the Commons' Energy Committee, agreed the energy provisions had been successfully negotiated. Canada's energy exports to the United States consisted of $3.8 billion of crude oil, $2.5 billion of natural gas, $10 billion of electricity with about $3 billion in other energy commodities. This participant described the current bilateral trade as largely free of regulatory barriers. She reported on Canada's recent

deregulatory moves and the institution of a market-based procedure as well as the scaling down of incentives for energy exploration and development. Currently Canada was supplying 1.8 per cent of U.S. electrical markets. She noted that while Canada's electricity was generated by provincially-owned utilities, Canadian electricity export prices were based on the real commercial costs.

In addressing the problem of lower priced Canadian uranium, this spokesperson explained that Ontario Hydro was paying higher than current export prices for its uranium because it had contracted on a commercial basis, many years ago, for the mined and stockpiled Ontario uranium at the going, relatively high, prices. Since that time, Saskatchewan uranium mines had opened up with extremely rich, low priced uranium which had helped to bring down prices.

A Canadian Senator commented that the uranium industry in his province was carefully watching both the Domenici bill in Congress as well as the case brought to the U.S. Supreme Court by U.S. uranium producers. He asked if the Domenici bill — which would penalize any U.S. utility that used more than 37.5 per cent of foreign uranium of its total requirements — would apply to Canada if the FTA passed? Would it pass Congress? If it did, would the Administration veto it? Did this bill contravene GATT? Was it in the spirit of the standstill provision?

U.S. participants responded that it was doubtful the Domenici bill would pass the House. The Administration was firmly opposed to it. It could be considered a violation of the standstill clause. Nonetheless there was a problem of how to maintain some U.S. uranium production in the face of the FTA and the low-priced Canadian imports.

A Canadian Senator said the energy package seemed to have been stuffed into the Agreement at the last moment without being adequately thought through. Specifically he wondered whether the proportionality provisions would not cause problems in the event of reduction or elimination in offshore oil shipments. In such a case Canada would seek to increase its domestic oil production to serve its eastern markets which would be cut off. But under the terms of the Agreement, if U.S. purchasers wished to increase their imports of Canadian oil at such a time, Canada would be obliged to sell more oil in order to maintain the same proportion of Canadian production available to the United States as had been available during recent but lower production levels. Any

refusal by Canada to issue an export licence would constitute a restriction and trigger the Agreement's proportionality clause. This Senator also raised the question that if Canada were to subsidize the development of the Hibernia field at a cost of, say, a billion dollars, this would add to the total North American supply picture, but "who would pick up the tab?"

A U.S. Senator discounted the proportionality problem saying the more stringent sharing provisions of the International Energy Agency (IEA), not the FTA, would prevail in such a case. Even if the IEA rules did not come into play, the resulting and inevitable rise in world oil prices would bring on the tremendous oil reserves in Alaska which rivalled those of Saudi Arabia. A Canadian member considered that the concerns expressed by the Canadian Senator related to proportionality were incorrect. Canada could, he said, increase its production in an emergency and it "would not have to sell a drop of this increase".

A Canadian member, opposed to the FTA, suggested that the energy section could be viewed as "a bellweather" indicator as to why the FTA was controversial in Canada. There were two fundamental issues underlying the energy provisions: sovereignty and the government's role in the economy. Behind it all was a debate over deregulation and the ability of the government to intervene when necessary in the economy. The FTA energy provisions meant that Canada would lose control of a vital resource as well as its ability to use these energy resources, for example, to cushion the economy against rising world prices.

Another Canadian critic agreed that the FTA meant the deregulators had won permanently. No National Energy Policy would be possible in the future. Many Canadians, he said, considered that the hands of future Canadian governments should not be so tied.

In response, a Canadian Senator said he did not believe the Agreement had compromised Canadian sovereignty. Canada was already committed to energy sharing arrangements under the IEA that were more onerous than those of the FTA. Moreover, while governments could not adjust energy prices, they could, through taxation, raise funds to redress inequities in the economy.

Alcoholic Beverages

There was little discussion of the FTA's impact on trade in alcoholic beverages. One American Congressman said he believed the Agreement treated spirits and wine very fairly. However, there were concerns that the Canadian provinces would not implement the provisions affecting wine and spirits and that European and other wines could pass through Canada into the United States.

COMMITTEE I — TRADE ISSUES

Agenda

1. U.S./Canadian countervail and anti-dumping duties: development of a substitute system of rules
2. The Free Trade Agreement and the GATT
3. Uruguay Round: agriculture, services, intellectual property

Discussion in Committee I did not follow the agenda but focussed on two issues: a comparison of subsidy practices in the two countries and a review of agricultural issues, including a description of supply management in Canada. It was mainly an information session which revealed that even among well-informed legislators, knowledge about practices in the other country was limited.

Several Canadian speakers spoke about subsidy practices in Canada, placing particular emphasis on regional development, a discussion which the Americans appeared to find interesting. For their part U.S. participants pointed to two principal areas, defence contracts, including the increasing pressure to insist of "Buy American" requirements and the intense competition between states and municipalities which led to the "pirating" of plants from other parts of the United States and even from abroad.

A Canadian participant with a detailed personal knowledge of comparative practices in the financial services of the two countries commented that each side has over the years introduced what they now consider to be ordinary business practices, but which were perceived by the other country to be subsidies. He suggested that simply by comparing and looking at these two lists of practices it should be possible to reduce mutual suspicions. In his opinion the subject had to be raised in this manner to the political level.

A knowledgeable American speaker on the Ways and Means Committee noted that the Congress was trying to establish a simple test that would identify when a form of support for business became a subsidy. His Committee preferred

the test of "general availability". This led a Canadian participant to describe some of the supports that were generally available to Canadian fishermen that had been deemed to be subsidies by U.S. agencies such as assistance in the construction of fishing boats.

There was agreement among those present in Committee I that both sides engage in providing support to industry, and that each country tended to regard the incentives it provided as justified for one reason or another, while considering practices of the other country to be subsidies. There was also a recognition that there was a huge volume of trade between the two countries that was unassisted and that, looked at from this perspective, mutual trade was relatively fair. Nevertheless, it was recognized that there was a political problem, particularly during a period of protectionism. It was accordingly decided that the staffs of the two delegations should undertake over the course of the next year to assemble information by an appropriate means comparing the subsidy arrangements available in the two countries so as to provide a solid basis for an examination of the subject at next year's meeting of the Group. It was recognized that, although a great deal of information is available, it might be difficult to present it in a sufficiently condensed form to make it comparable and suited for discussion by the Group. For this reason it might be necessary to seek some external assistance and to arrange for meetings between the two sides, both at the staff level and in a subcommittee of legislators.

The Committee turned at this point to agricultural questions. An American opened discussion by asking what Canadians thought of President Reagan's proposal to phase out all subsidies within a decade. In response, a Canadian participant indicated that, while sharing the objective, the goal seemed to be unrealistic. Another Canadian suggested that there was an inconsistency between the U.S. Farm bill and advocacy of ending subsidies. The American response was that the Farm bill had been forced on the United States by the European Community, implying that Canada was not impacted. This observation in turn led to a Canadian riposte to the effect that Canada was caught in the middle and had had to introduce special support programs in order to preserve the family farm, an objective which Americans insisted also lay behind their bill.

Several American participants expressed an interest in learning about the Canadian supply management system. One Canadian, drawing a parallel with studies of the hog cycle carried out a century ago, pointed out that it has been demonstrated that the individual actions of farmers to promote their own interest by increasing their production would normally drive down prices and as a

result adversely affect the common interest. A supply management system functions by determining the size of the market, licencing only sufficient production to supply the anticipated demand and allocating only sufficient quota to meet expected demand. The system is essentially a cost-plus arrangement, with prices kept up to the point where exports are scarcely possible. Canadian participants acknowledged that, although the system had reduced agricultural surpluses, food processors were unhappy with it. Moreover, it gave an advantage to larger farms which normally enjoyed lower unit operating costs.

While acknowledging that the United States did not have a supply management program, an American noted that Congress had established a system of marketing orders, which had some parallels.

COMMITTEE II — DEFENCE AND ENERGY

Agenda

1. Canadian submarine purchase and U.S. technology
2. Arctic sovereignty; access to the Northwest Passage
3. FERC regulations regarding natural gas throughput charges

Canadian submarine purchase and U.S. technology

A U.S. spokesman led off the discussion by noting that the President had recently stated his Administration would permit the transfer of U.S. nuclear technology now incorporated in the British Trafalgar-class submarine to Canada. A presidential submission to Congress recommending the transfer was anticipated by May 15. Congress then would have 90 days within this session to deal with it. The American delegate noted that the U.S. had denied such transfers to France, the Netherlands and Italy. However, the President's decision "is a clear indication of our special relationships with Canada".

The same Congressman, known to reflect White House views on a number of issues, noted that, while there were "some reservations" about the deal, "I don't see any real substantial opposition to it". As for buying the French contender, the Rubis-Améthyste, "If Canadians decide to buy from France, that's their decision".

The question uppermost in the U.S. delegate's mind was whether Americans should view the Canadian initiative as being in support of NATO and NATO strategy, or a "non-aligned" or independent defence strategy. A second question was whether the decision was final. A Canadian delegate replied that nuclear-powered submarines were meant to replace the aged Oberon-class diesel electric boats Canada now operated, rather than relying on only a surface fleet of frigates. The balanced fleet was aimed at supporting NATO properly and allowing Canada "to do our share" in the Atlantic and Pacific oceans. An added benefit was the ability to patrol under Arctic ice. As for the finality of the decision, the Canadian co-chairperson stated that, although a succeeding Canadian government would not be bound to a previous government's decisions, a

major political component in any future examination of the merits of the submarine purchase would have to take into account that "we have to defend the country and not depend on others to do it for us."

The lead-off Canadian speaker stated that, while the decision had been controversial in Canada, he doubted it would be reversed if a minority government came to power after the next election. He noted that opposition in Congress had focussed on holding fast to the longstanding policy of denying the transfer of sensitive technology to other Western nations, the suggestion being that the more other countries have access to the technology, the more complicated guaranteeing safety and security becomes. He personally hoped Canada would opt for the British submarine so that the operating countries "would all be in the same family." An American participant referred to a letter opposing the transfer of technology sent by the late U.S. Congressman Mel Price in November 1987 to former Secretary of Defense Caspar Weinberger. The principal concern expressed in the letter was how Washington could "draw the line" on future request for similar transfers if permission were granted to the United Kingdom. The U.S. co-chairperson interjected that he believed other countries could not object and Congress "won't give a damn" for precedents.

A Canadian Senator asked if there was a danger that opponents within the Pentagon, specifically Adm. Kinnaird McKee, head of the U.S. Navy's nuclear propulsion section, might prevail in stopping the transfer. The principal U.S. spokesman replied that presidential support for the deal was firm, largely because of the Prime Minister's close relationship with President Reagan.

The American co-chairperson stated bluntly, "If you don't have nuclear submarines, you don't have submarines." Speaking in support of nuclear weapons, he added that nuclear bombs are needed to provide security. With only conventional weapons, "we'd get our fannies kicked in a week." Some type of nuclear deterrent was essential for the survival of the free world, and that should underlie the evaluation of all arms limitation agreements with the Soviet Union. In a colourful allusion, he said that if he were in a room with 10 people and a gorilla, he would not ask those people to give up their guns. And if there was only one gun, he would like to have it. Of course, he would offer protection to the others in the room.

Arctic sovereignty; access to the Northwest Passage

The first American participant, referring back to the submarine decision, stated that at last year's meeting, which coincided with publication of Canada's defence White Paper, the initial reaction was that the purpose of nuclear-powered submarined "was to run our butts out of the North". Since that time an agreement has been signed between the two countries setting out an administrative and notification procedure for U.S. icebreakers wishing to transit the Northwest passage. The agreement did not concede the claims of either side.

The lead-off Canadian speaker mentioned that the debate on access to the Northwest Passage had subsided since Canada decided to draw straight baselines around the Arctic Archipelago and made it known it was prepared to go to the World Court to argue that waters within the Archipelago are internal and not international. He alluded to the U.S. contention that the waters of the Passage were international, but noted that for commercial traffic Canada's Arctic Waters Pollution Act, in force since 1970, had given Canada "effective control" over surface shipping. The signing of the icebreaker agreement "got us both out of a sticky situation". Americans should keep in mind that, while few Canadians live in the North, the Arctic is "a sacred thing" to them and part of the mystique of being a Canadian.

The Canadian co-chairperson added that Canada wanted to be informed of U.S. transits, rather than finding out after the fact. Canada was concerned about the impact of shipping on the Northern environment and native people and wildlife. The political situation could become interesting as Arctic oil came into production. She noted that Gulf Oil was discussing oil transportation with the U.S. Department of Energy.

Another Canadian participant listed Canadian defence activities in the North, pointing to them as elements of a concerted effort to protect Canadian sovereignty. Canada had increased surveillance overflights and naval patrols and would augment the mainly native Canadian Rangers. "We're doing everything we can." The American co-chairperson said that, while the United States had no objection to increased Canadian military activity in the North, Ottawa's assertion of sovereignty over waters the United States regards as international had military implications for American interests elsewhere in the world, where

successful sovereignty claims could prevent the passage of U.S. nuclear submarines and surface warships. A U.S. delegate commented that Americans understand the Canadian claim to sovereignty in the North and if the claim goes to the World Court, "so be it."

To underline his point, a Canadian participant reported that there was opposition in Canada to the icebreaker agreement among those who considered it too weak. Both opposition parties were critical of the nuclear-powered submarine purchase and, given the imminence of a Canadian election, the purchase was very much up in the air. "If the New Democratic Party has anything to do with calling the shots in the next Parliament, there will be no nuclear-powered submarines."

A Canadian Senator noted that the opinion that the submarine buy should be cancelled was not universally held within the Liberal party. The nuclear technology transfer decision should be made quickly so that Canada was committed to going ahead with nuclear-powered submarines. The Senator said he was convinced that, if Canada needed submarines, diesel-electric boats were obsolete, leaving only the nuclear-powered option. He stressed, however, that his opinion was not Liberal policy.

FERC regulations regarding natural gas throughput charges

According to the Canadian co-chairperson, the nub of the problem appeared to be differing gas pricing structures in both countries and an attempt to impose the principle of extra-territoriality on Canadian producers. Canada would like to see the Federal Energy Regulatory Commission's ruling 256 reversed in the courts and did not believe that it had been dumping natural gas in the U.S. World oil and gas prices had fallen, leading to a decline in the Canadian price. Meanwhile, continuing low world prices had discouraged American producers from tapping new sources or reserves of gas.

A Canadian speaker stated that the process of deregulation in the United States had left Canadians confused as to what the final result of deregulation would be. Once that point was reached, the two countries would be in a better position to harmonize their pricing structures. In the longer run, he ventured, problems in natural gas pricing should be solved because of the goodwill that was being created by the FTA.

On the American side an Alaskan Senator summed up the problem as being rooted in Canada's ability to pass on future exploration costs to consumers through the Canadian pricing system. He allowed that the FERC ruling has sown confusion. However, he predicted that the pricing problem would eventually move from the U.S. courts into Congress. Another avenue was the possible eventual inclusion in the FTA of "uniform pricing concepts" based on the country of origin of the fuel.

Another Canadian participant suggested that the problem would be worked out. As a point of clarification, he noted that the costs in question were included in contracts to cover the amortization of pre-built sections of pipeline. Existing pipelines were operating at close to full volume during the last winter and netbacks to Canadian producers were "reasonable" because of the relatively high volume of gas sold. He suggested both countries should make some arrangement to provide a price determining mechanism at the border.

The American co-chairperson stated that in the United States natural gas now was basically deregulated. There was "unrest" among producers caused by low prices. However, an increase in price to $2 per MCF (thousand cubic foot) would mean that "nobody will care how anybody counts it". A Canadian speaker commented that consumers as well as producers must be well served by any pricing system. However, the system must also provide exploration funds because cheaply available gas was running out. The main concern of both countries should be how they were going to ensure future availability of oil and gas.

The U.S. co-chairperson pointed to a decline in American refining capacity of about one-half and warned that, in an emergency, the United States would need three to four times what was currently available domestically. Although reserves were available in Alaska and the contiguous 48 states, it would take three to four years to build up the necessary capacity. The goal should be to maintain viable producers because, if consumers got caught in a squeeze in the future, they would blame Congress.

In response to a Canadian query on the status of further Alaska pipeline construction, the U.S. Senator from Alaska replied that a more likely development was a Japanese and Korean-backed bid to set up a natural gas liquefacation facility in Alaska to provide gas for export to Japan. While 7

billion barrels of oil had been extracted on the Alaska North Slope, the associated 35 trillion cubic feet of natural gas has been reinjected underground.

With the Asian consortium bid expected this year, it would be "a cold day in hell" before the Alaskan pipe line was connected to Canada. The Japanese investment in Alaska would include construction of a pipeline from Prudhoe Bay to Valdez, a liquefacation plant and Korean-built natural gas tankers. Such a deal could wipe out the current trade imbalance between the United States and Japan and balance the U.S. deficit.

A U.S. speaker questioned whether the FTA would eliminate the National Energy Board's stipulation that surplus electricity be offered to other provinces before being exported. The Canadian co-chairperson stated that the FTA did not deal with the issue. However, it was expected that the NEB would drop the stipulation. A U.S. participant stressed that the reliability of Canadian supply of hydro-electricity to the northeastern United States would prevent economically foolish decisions to build thermal power plants in that region. It was recognized that hydro-electricity was safe and clean, but Americans still must be persuaded that the supply was reliable. The Canadian co-chairperson noted that electricity from Canada displaced imports of foreign oil and met clean air requirements, as did nuclear-generated electricity.

COMMITTEE III — ENVIRONMENT AND FISHERIES ISSUES

Agenda

1. Acid rain
2. East coast fisheries
3. West coast fisheries
4. Great Lakes water levels

Acid rain

The first Canadian spokesman on this subject outlined Canadian concerns regarding the lack of U.S. action to curb acid rain and the disappointing emphasis by the U.S. Administration on continued research. About half of the acid rain falling in Canada came from the United States and was seriously affecting Canadian forests, rivers and lakes, particularly in Eastern Canada. For example, the resulting maple tree die-back had an employment impact on the maple syrup industry and salmon rivers were feeling the effect. Canada acknowledged it had large polluting firms such as Inco and Noranda, but action was now being taken and dollars spent to cut their emissions. Scrubbers were expensive, but were a necessity to attack this serious problem. This participant predicted the United States would itself be increasingly affected by acid rain.

Two U.S. Congressmen responded, one from upstate New York and the other from the mid-west. Both acknowledged the seriousness of the problem, especially in the forests and lakes of the Adirondacks, in Vermont and New Hampshire, but also as far south as Chesapeake Bay, where acid rain appeared to be affecting fish. The principal states causing the problem were Pennsylvania, Ohio, Michigan and to some extent Indiana. It was discouraging that no funds had been set aside to cut emissions. In fact, Ohio was spending considerable funds just to proclaim that acid rain was not a problem. One spokesman characterized the U.S. Administration as "too bland" on this issue and the other acknowledged that "the Administration wants to study it to death", although research was clearly no longer necessary.

The two U.S. spokesmen then outlined the difficulties facing legislative curbs on acid rain in Congress. One speaker lamented the imminent retirement of Senator Stafford of Vermont, who had carried the issue forward for quite some time in the Senate. There were two opposing groups in Congress. The main obstacle was the House Energy Committee led by Chairman Dingell. Mr. Dingell had recently frustrated progress by countering a proposal for controls on plant emissions with another proposal to severely reduce auto emissions in California, a move which marshalled opposition and led to a stalemate. However, the mid-west spokesman judged that the environmentalists were trying to get too much all at once and this meant no bill could even get out of the committee stage.

Dialogues between the two governments on this issue had got nowhere. Nor had the two envoys' report. The U.S. spokesman suggested that one approach would be the organization by the Centre for Legislative Exchange in Ottawa of direct lobbying of Congress by Canadian parliamentarians. The first U.S. spokesman agreed that this was worth a try and suggested that the focus of such lobbying should be on Congressman Waxman's Health and Environment subcommittee of the House Energy Committee. Congressman Sikorski of Minnesota, on this subcommittee, was also mentioned. About nine members of this Committee were trying to get a middle position and it would be important to try to identify how three or four more votes could be changed. He suggested that the chairman of the Agriculture Committee, Mr. de la Garza should also be presented with the damage statistics and it would be important as well to see the chairmen of subcommittees and ranking members. Alternatively or additionally key Congressional figures could be invited to Canada.

A second Canadian delegate told the U.S. side that, unlike in the United States, political support in Canada for acid rain reduction was quite strong. While significant decreases were already achieved and would be achieved in Canadian emissions, U.S. emissions remained high and the great damage has been inflicted. It was estimated that in Quebec alone, 2 million taps on maple trees were no longer viable, 15,000 Canadian lakes were dead (of which 7,000 were in Ontario), while 150,000 more were in "acid shock". He explained that the sudden impact of melting snow in the spring released the heavy build-up of sulphur dioxide (SO_2) and nitrogen oxide (NOx) which had accumulated on the snow over the winter with a consequent traumatic shock on plant and water life in Canada. Further, a new study had catalogued the millions being lost through coniferous and deciduous trees die-off.

This spokesman continued that the Canadian action implementing a 50 per cent reduction in 1980 levels by 1994 meant an objective of a maximum loading limit of 18 lbs per acre in the Laurentians. Establishing a targetable level of lower emissions was important. Another approach might be court action and he cited the landmark case of 40 years ago when Washington and Oregon had successfully brought suit against the Trail Smelter Company of British Columbia. He wondered whether there should be a Canadian suit brought in the east, although he recognized there could be some difficulty in distinguishing the plumes from U.S. and Canadian plants as they became integrated at high altitudes.

This delegate then asked if the U.S. Congressman could explain why the Administration had not taken any action against states which were major sources of transboundary air pollution since Section 115 of the U.S. Clean Air Act gave the EPA Administrator specific authority to take action against such states. Has Congress no power to force him to implement this legislation, he asked? In response, a Congressman suggested that one way to raise the issue would be for a letter to go to Lee Thomas signed by 100 Congressmen. However, the New York State Congressman undertook to speak directly to the EPA Administrator if the Canadian side would send him a letter requesting information on this matter.*

A Canadian delegate made the point that, while scrubbers and other abatement measures were extremely costly — some were saying it would amount to $6,000 for every pound of fish saved — it was important to recognize that otherwise the present generation would leave an untenable environment for their children and grandchildren. Another Canadian mentioned that there were currently studies suggesting that human health could be affected by acid rain. A third Canadian pressed for urgent U.S. action, saying that the denuding effect around Sudbury from emissions could be compared to the Agent Orange effect. Even with additives to the soil, after many years it was still difficult to grow grass on this blighted ground. He added that, while in some farming areas it was possible to buffer the effects of acid rain through the addition of lime, this was not possible on the Laurentian shield area. Inco, the cause of the denuding

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* The Canadian delegation agreed and a letter was sent to the Congressman.

effect was now, at its own expense, making an enormous reduction in its emissions and was away ahead of the schedule fixed by federal-provincial agreement. Inco has spent $50 million on research to contain SO_2 levels and one facet of its operations was even earning them money. Noranda, which could not absorb the whole cost, was receiving some federal and provincial funds to assist its clean-up.

East coast fisheries

The initial Canadian spokesman on this topic stressed the need for Canada and the United States to take a cooperative approach toward management of the east coast fish stocks. The most serious problem recently involved excessive fishing by American fishermen beyond the 200 mile limit, particularly on the "Tail" of the Grand Banks off Newfoundland. The Northwest Atlantic Fisheries Organization (NAFO) has tried to manage this area, but the United States was not a NAFO member and was pursuing completely unregulated fishing activities. The Europeans also were abusing their NAFO quotas. Spawning and breeding took place in this area and fishing must be controlled or diminished takes would inevitably result. In the interests of stocks management the United States should become a member of NAFO, this spokesman urged. A lot of money, perhaps $1 billion, was involved in fish exports from Atlantic Canada.

Seals were aso contributing to diminishing fish stocks, continued this member. Due to the termination of the seal pup hunt the seal population was growing rapidly. It was estimated that each year an adult seal ate one tonne of fish. The problem was affecting the west coast as well. Another Canadian noted that cod stocks were being contaminated by the seals and this could present marketing problems. There was no possibility of renewing the hunt or even culling the seals due to the international impact created by Greenpeace, the European Parliament and the media distortions.

Canadian participants noted that Canada had foregone plans to drill for oil and natural gas off Georges Bank in response to opposition by U.S. and Canadian fishermen. A new Canadian government policy banned oil exploration until at least the year 2000. U.S. interests had drilled 10 wells on its side of Georges Bank but had found nothing. However, a U.S. Senator discounted environmental

concerns over oil drilling, commenting that off the Louisiana coast the fish seemed more plentiful now than before the oil rigs moved in. Even with a 'worst case' spill scenario such as happened in Cook Inlet last year, there had been a costly clean-up but no lasting effects. As for the expansion in the mammals' population, this was presenting a real problem for fish stocks of both countries.

Even the Alaskan hunt of male seals was affected by the end of the Canadian whitecoat kill. More fur seals were now dying from malnutrition than were previously harvested. But environmentalists were the strongest political force in the United States today and they were unassailable. A long-term program was needed to restore ocean fisheries, but he predicted that groundfish fish farming will take over from natural fish. In any case there was no fish supply problem, fish prices were going down and there was not a calamity situation.

A west coast member said that seals had been penetrating as far as 50 miles up several salmon rivers on the west coast and this would certainly affect certain salmon species. The U.S. Senator from Alaska agreed and noted that Beluga whales could devastate a salmon run as the salmon came down to river mouth in spring.

West coast fisheries

Strong criticism was voiced by the Alaskan Senator of Canada's new landing requirements' policy for west coast salmon and herring announced after the recent GATT panel ruling. He said 10 Seattle fishing companies were bringing a private action and Clayton Yeutter had said he would appeal the new policy at the GATT Council in Geneva as a violation of GATT rules. Any quality inspection requirement would mean handling delays which would inevitably lead to immediate processing and an end to exports of unprocessed fish. The policy was clearly a violation of traditional practices. Moreover it would destroy the cross-fishing that took place including Canadian fishermen operating off the Alaskan coast.

This spokesman predicted that retaliatory measures would be taken. The United States would fish heavily on the east coast beyond the 200 mile limit, or it would impose landing requirements for fish taken off Alaska. More than one-half of the west coast Canadian fishing fleet was in Alaskan waters at some periods of the year. On the east coast, the minimum size requirements for Canadian lobsters landed in New England markets would be raised. The U.S. Senator estimated that the new west coast Canadian requirements would cost U.S. fishermen losses of $40 to $100 million. If Canada persists in these west coast barriers, it could lead to trade sanctions, and to retaliations equal in volume.

Responding to a question as to the origins of the dispute, a Canadian west coast member recounted that the case had been instigated by U.S. fishermen under Section 301 and had subsequently shifted to GATT. The problem lay with huge freezer ships that could fish 24 hours a day and stay out for 7 or 8 months at a time. What was happening was that sockeye salmon would be taken by Canadian fishermen and be delivered to Seattle from whence it was shipped to Tokyo, the biggest exchange. He noted that when Alaskan fishermen had big runs of pink salmon they contacted Prince Rupert processors who operated shorter runs at lower costs. In fact, approximately 15 per cent of B.C. fish packaging were estimated to come from Alaskan overflows.

An east coast Canadian spokesman urged that no linkage be made to the east coast fisheries. "If it isn't broken, don't fix it" he said. While Canadian lobster sizes had varied from different areas, the original Canadian standards for scallops had been larger than those required in Gloucester, Mass. Other Canadian members protested the idea of U.S. retaliation in respect to east coast fisheries, and suggested it would be difficult to enforce. But the Alaskan Senator insisted that Canadian fish could be cut off from Boston, its major market. The Canadian measure was not a conservation measure but a trade restriction, he insisted.

Great Lakes water levels

This topic was put on the agenda at the last moment by two Congressmen from districts in upstate New York bordering on Lake Ontario who were perturbed by the present very low water levels of Lake Ontario. The

International Joint Commission (IJC) was responsible for maintaining Great Lakes levels, although it was admitted that they were very difficult to control, said one spokesman. In recent years the levels had been too high, but last December, expecting high levels again, the U.S. Corps of Engineers had pushed too much water through the St. Lawrence. When rainfall levels fell the result was that marinas, boating interests and those with cottages and homes on the shore were in difficulties as to how to get their boats in the water. Admittedly, there were conflicting opinions between commercial shipping interests, power interests, pleasure craft and cottagers. In Ogdensburg, said the other U.S. spokesman the water was at the lowest ever recorded level, 17 inches lower on April 1 this year than on the same date last year. He urged that members of the Canada-U.S. Inter-Parliamentary Group point out to the relevant agencies, the IJC, the power authorities and the Seaway authorities, the serious economic effects of these low levels, and put pressure on them so they would "hear the protest". It was not good enough for them to say "the levels would average out over the long term".

A Canadian member reminded the Americans that the IJC was, under a 1986 reference, now studying the problem of both high and low levels and would be reporting in two stages in 1989 and 1991. While Lake Ontario was experiencing low levels, it should be remembered that some of the upper lakes were still at high levels, this member said. If anything were done to restrict the flow out in these areas it would cause great difficulties in the upper system.

The second U.S. spokesman was not optimistic about the IJC study nor that the 1991 report would provide any answers. He called for "a little common sense" to raise the levels at least 6 to 8 inches. It would take about two to three weeks to back the water up. The IJC needed to be sensitized.

Another Canadian from the Lake St. Francis area said marinas in his riding were also complaining about low levels, about 6 inches lower than average, he suggested rounding up a dozen M.P.s and Congressmen whose ridings front on the Kingston-Cornwall area to get together to discuss the problem and to formulate a joint letter to the IJC. This idea seemed to be acceptable to the participants.

An American asked why the water could not be sent down the system faster. A Canadian member said he had read an explanation of the low levels in Lake Ontario — which he did not necessarily accept — to the effect that the current low water difficulties along the shore were related to currents created by higher than normal outflow from the effort to reduce the excess of previous years in the upper lakes.

The U.S. delegate reiterated that some action needed to be taken by parliamentarians to sensitize the authorities in order to get some fast relief.

CONCLUDING PLENARY

The topic for the final plenary was the elections in the two countries. The U.S. delegation reviewed some of the prospects of the candidates and likely developments in the U.S. race, while the Canadians explained the uncertain timing associated with a Canadian election, the volatility of the electorate and some of the likely election issues.

It was a measure of the interest of the U.S. delegation in the Free Trade Agreement that the final plenary discussion reverted fairly quickly to that question once again.

The U.S. chairman of Trade subcommittee warned the Canadians what could happen if Canada turned the FTA down. The Agreement was not perfect but it was fair, it was not lopsided, he said. If Canada decided to stand alone, well and good, but there would be no going back to the status quo ante. On the other hand, a lot of issues that had been festering for years had lain dormant or been subdued because of the "wonderful relationship" that existed and because an Agreement was gradually evolving. He himself, as chairman of the Trade subcommittee, had been "sitting on hundreds of pieces of protectionist legislation" which would be very painful for Canada. If they reached the floor of the House, they would be likely to pass, he asserted. It would be years before the damage could be rectified, if the FTA were cast aside. If it came into effect, it could always be improved through renegotiations later, he said. A U.S. Senator added that the U.S. system would be shocked by a Canadian rejection of the FTA and the effect would be unpredictable. However, if the bilateral agreement worked it could be a world "trend setter".

Canadian delegates gave a variety of opinions as to the strength of Canadian support for or against the Agreement. A Canadian assured the U.S. delegates that — even if the present government were changed in an election — if the FTA were in place, it was a long tradition that agreements made by previous governments were honoured by succeeding governments.

Another Canadian opposition participant said he took the warning of the U.S. Trade Committee chairman extremely seriously. The softwood lumber case had pointed to the need for an improved method of dealing with countervail and anti-dumping cases. If his party were to become the government or were in a position of power after the election, there would be a need for some renegotiation of the Agreement.

One Canadian participant pointed out that, although he personally thought the FTA would be a win-win situation for both countries, inevitably there would be some losers. Unfortunately, bad news always gets the most attention. In assessing the FTA, Canadians were going to ask, "was it a fair deal?" In a way, the U.S. acid rain policy would be a test of that fairness. Acid rain would be an election issue in Canada. If Canadians considered that the United States did not treat Canada fairly on acid rain, it could affect the government's selling of the FTA as "a fair deal".

In response, U.S. members reiterated what several had already stated in Committee III, that they were frustrated because it was impossible to get the acid rain issue on the floor of the House of Representatives. In the Senate, both Senators Byrd and Baker, who are two dominant figures representing coal producing states, have resisted efforts to control emissions. If Senator Mitchell of Maine, a supporter of curbs on acid rain, were to become the new majority leader on Senator Byrd's retirement from that office, the situation might change. But they did not offer the hope of any progress until after the next U.S. election.

Respectfully submitted,

James Balfour, Senator
Co-Chairman

Patrick Nowlan, M.P.
Co-Chairman

APPENDIX "B"

(*See p. 3791*)

NATIONAL FILM BOARD

INQUIRY ON REPORT ON FILM ENTITLED "THE KID WHO COULDN'T MISS"—REPORT OF STANDING SENATE COMMITTEE ON SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

TUESDAY, July 5, 1988

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

SEVENTEENTH REPORT

During study of the enquiry of the Honourable Senator Jack Marshall with respect to the National Film Board production, "The Kid Who Couldn't Miss," the Subcommittee on Veterans Affairs and Senior Citizens of the Standing Senate Committee on Social Affairs, Science and Technology received important new information about the relationship which existed between Air Marshal William Avery Bishop and his wartime mechanic, Walter "Freddie" Bourne as well as new information about the flight characteristics of the aircraft which Bishop flew during World War I.

In the early 1950s, Walter "Freddie" Bourne wrote a 20-page essay in the form of a letter to Wesley Rogers, son of his close friend Winnie Rogers. This letter gives some indication of Bourne's wide range of interests, for it includes comments on the history of the native peoples of North America, a description of England, its school system, labour laws, etc., and a brief but significant account of his activities during World War I. This latter section deals with the wartime career of Bishop and their continuing contacts thereafter. It is very clear that as late as the 1950s, Walter Bourne had no doubts or reservations about the integrity of Bishop's wartime record or his reputation as the "Deadliest Air Ace" of the world wars. The letter also illustrates the close relationship between pilot and mechanic - in the case of Bourne and Bishop, a relationship based on extraordinary trust, faith and respect, because the mechanic holds his pilot's life in his hands every day and every hour that the plane is in the air. This throws additional discredit on the filmmaker's use of the character of Walter "Freddie" Bourne to attack Bishop's integrity and reputation.

"The Kid Who Couldn't Miss" suggests that Bishop landed his aircraft, a Nieuport 17, removed the Lewis machine gun mounted on the upper wing and fired a number of rounds into its tail assembly, to fake his attack on a German airfield, for which he was awarded the Victoria Cross. R.W. Bradford, Associate Director of the National Aviation Museum of Canada wrote the Subcommittee to offer expert opinion on three things:

(1) technicalities of landing a Nieuport 17 and taking off again without assistance;

(2) the damage suffered by the aircraft as reported by his Flight Commander; and

(3) the question of the missing gun.

His conclusions are simple and straightforward. While it was easy to land a Nieuport unassisted, it was next to impossible to take off without assistance because without ground crew to restrain it, the airplane would either run away on its own or stand on its nose. Hence Bishop could not have simply landed, carefully shot up his plane, and then taken off again - he would have had to find an isolated landing field and then find assistance to help him take off - a highly improbable hypothesis. The damage to Bishop's plane, as reported by his superiors, could have been repaired "within a few hours." Thirdly, the Lewis gun could be removed and jettisoned in the air without much difficulty.

Mr. Bradford's opinions are authoritative, not speculative or remembered long after the event, because they can readily be confirmed. The National Aviation Museum has in its collection a Nieuport 17, equipped as Bishop's was 70 years ago. The museum's plane still flies in air shows and is repaired the same way as Bishop's would have been after his mission.

An extract from Bourne's essay and the text of Mr. Bradford's letter are reprinted as appendices to this Report, as are letters to the Subcommittee and the Prime Minister from Walter Bourne's daughter. While this information, if it had been available at the time, would not have changed the general tenor of our first Report to the Senate, it would have reinforced its conclusions and the desire of your Committee to see a more forthright disclaimer attached to "The Kid Who Couldn't Miss" than the one adopted by the National Film Board:

THE FILM YOU ARE ABOUT TO SEE IS A DOCU-DRAMA.

IT IS A PERSPECTIVE ON THE NATURE OF HEROISM AND THE LEGEND OF BILLY BISHOP.

IT CONTAINS BOTH ACTUAL DOCUMENTARY FOOTAGE AND DRAMATIZED SEGMENTS.

An acceptable compromise on the wording of a new disclaimer was agreed upon and the conclusion to the study of Senator Marshall's enquiry was embodied in an exchange of letters. In these letters it was agreed that the disclaimer would be worded as follows:

> This film is a docu-drama and combines elements of both reality and fiction. It does not pretend to be a biography of Billy Bishop. Certain characters have been used to express certain doubts and reservations about Bishop's exploits. There is no evidence that these were shared by the actual characters.

The National Film Board assured the Subcommittee that this disclaimer would be placed at the beginning of the film immediately after the National Film Board logo and that Col. A.J. Bauer would be called upon as a consultant during production filming of the new film.

Your Committee is also pleased to report that the director of the new film on the life and career of Billy Bishop has expressed an interest in meeting with members of the Subcommittee.

Respectfully submitted,

ARTHUR TREMBLAY
Chairman

APPENDIX "A"

18, Bennett Road
Sutton Coldfield, West Midland
England

January 10th, 1988

The Honourable Jack Marshall, C.D.
Room 804-VB
Senate of Canada
Ottawa

Dear Sir,

Enclosed you will find a copy of the letter I have sent to your Prime Minister explaining my interest in the debate at present centred around the film "The Kid Who Couldn't Miss". I have read with interest the reports sent to me by Mr. Wesley Rogers, of your part in the Senate Debates of October 27th, 28th and November 5th but admit to being rather puzzled on two points.

In his own account of the single-handed attack on an enemy airfield in the early hours of June 2nd, written in his book "Winged Warfare" Billy Bishop says he did not know where the airfield he attacked was, as the one he had set out to attack had been deserted and he came upon this one by chance. If the film company have stated that the attack took place at Estournel does this mean that the records show an airfield there being attacked at that time in the way Billy Bishop describes?

Secondly, in his own account, no mention is made of gun being ditched before arriving back at base. Of the plane he writes "Everywhere it was shot about, bullet-holes being in almost every part of it, although none, luckily,within two feet of where I sat. Parts of the machine were so badly damaged as to take a lot of repairing; but I used the same patched planes in the machine for some time afterwards, and always felt great affection for it for pulling me through such a successful enterprise". Surely he would not damage his own plane to this extent and then risk flying it home, and, could he risk writing an untrue account so publicly while his contempories were alive to challenge his report?

He also continued "I personally congratulated the man (my father) who had charge of my gun, suddenly realising that if it had jammed at a critical moment what a tight corner I would have been in" I find it strange that no mention was made here of ditching the gun.

I am in no position to judge Billy Bishop but I know my father was an intelligent man, a man of integrity. He thought most highly of him until his death and it would have broken his heart to think that his character could be used to utter such defamatory remarks. I would be grateful if you could have this slur on his memory removed.

Yours sincerely,

(Mrs.) L. Foster

18, Bennett Road
Sutton Coldfield, West Midland
England, B74 4TJ

January 9th, 1988

Prime Minister
Brian Mulroney

Dear Sir,

I have received from Mr. Wesley Rogers of Thunder Bay, Ontario, copies of part of the script for the National Film Board of Canada film entitled: "The Kid Who Couldn't Miss". Also in the same package were copies of speeches concerning this film, made by the Honourable Senator Jack Marshall C.D. in the Senate on October 27th, 28th and November 5th.

My father, "Freddie" Bourne was Billy Bishop's mechanic during the First World War. This fact never ceased to fill him with pride and I still have in my possession a telegram and a letter sent to my father in 1930 and 1942 from Mr. Bishop which he treasured until his death in 1956. He maintained contact with the Bishop family and was delighted just before he died, to hear that he would be portrayed in a film to be made about his hero. That film was never made as Billy Bishop died a few months later.

I appreciate the efforts being made by many Canadians to remove this slur that has been cast upon one of your war heroes and I will willingly assist in any way possible but I would also like to make another point.

My father was an intelligent, articulate man who fought for his country in two World Wars and lost both his legs. This film portrays him in an entirely different way and makes him utter remarks contrary to anything he would ever express. This is a terrible desecration of my father's memory and on behalf of the Canadian people I trust you will do everything in you power to see that this wrong is righted.

Yours sincerely

(Mrs.) L. Foster.

APPENDIX "B"

National Museums of Canada
National Museum of Science and Technology
National Aviation Museum

15 October 1987

Dear Senator Marshall,

I am taking the liberty of writing to you to express my thoughts regarding the significant factors that may not have been fully explored in the controversy surrounding the NFB film "The Kid Who Couldn't Miss".

My main concern is regarding the film's suggestion that Billy Bishop landed his Nieuport 17, removed the Lewis machine gun mounted on the upper wing and fired a number of rounds into the tail assembly of his aircraft. It seems to be suggested that he then threw the gun away and took off again. I would like to comment on three things:

1) Technicalities of landing this type of aircraft and taking off again without assistance;

2) the damage suffered by the aircraft as reported by his Flight Commander; and

3) the question of the missing gun.

On the first point, we in the National Aviation Museum have an advantage in commenting on this important matter for we have flown our Nieuport 17 at large numbers of major air shows in Canada over a period of 15 years. The aircraft has an original 110/120 H.P. rotary engine as did Bishop's aircraft and has no braking system as is common with most WWI fighters. To begin with, Bishop or any other competent pilot could land the Nieuport 17 on reasonable ground conditions and very quickly bring it to halt simply by depressing the "blip" switch on the control column (which cuts the electrical circuit to the Spark plugs, thereby reducing engine speed and thrust) while keeping the control column fully back after a full-stall landing which causes the tail skid (designed for stopping) to be held on the ground. He would have no difficulty then holding it there by judicious intermittent use of the "blip" switch (if he held it down continuously, the engine would stop).

Now, let's look at the real problem. The 110/120 horsepower Le Rhone rotary has the characteristics of all early rotary engines, - they have a high idling speed in proportion to the full power r.p.m. They simply do not "tick over" as a radial or in-line engine would do - in fact, with their fixed-pitch wooden propeller, they idle at about 45% full engine speed (500 r.p.m. as against 1150 r.p.m. for take-off at full power, - this compared with the average modern light aircraft with brakes having an idling speed 600-650 r.p.m. against approx. 2700 r.p.m. at full take-off power!). The blip switch of a rotary engined aircraft is the only means of further reducing the engine speed and, subsequently, power and propeller thrust. But, if the pilot of a rotary engined fighter lands and there is no one to assist him while he gets out of the aircraft, what does he do?

a) does he shut down the engine (by holding the blip switch down until it stops) and hope that he can start it at the last setting? If so, he must bear in mind that if it should start again, there would be a sudden surge of 45% full power while he frantically tries to run around the wing tip and get into the cockpit before the machine jumps makeshift wheel chocks (tree branches, etc.) and gets away or flips over on its nose;

b) does he leave the engine running and attempt to tie the stick back as far as it will go in the hopes of keeping the tail skid firmly on the ground at 45% power, - get out of the aircraft and hope that, relieved of his weight, the aircraft does no roll ahead and probably stand on its nose breaking the propeller. (Remember, if it starts to move ahead, there is a good chance that the tail will rise and a nose-over or runaway aircraft in rough ground is quite likely.) The whole idea of a pilot attempting to carry out this kind of exercise is, to me, ridiculous.

One final comment on this point is that it was not uncommon for pilots to land an aircraft on suitable ground during WWI, particularly, if they wanted to land near an enemy aircraft they had forced down. However, because the downed aircraft would attract attention of military people on the ground, as is proven by the photographs of the time, then there would be plenty of assistance in restarting the engine and restraining the aircraft until the pilot was ready to take off.

There is no question that Hollywood stunt pilots would find a way to do it alone (taxi the aircraft up an incline), but we are talking about the reality of uncertain terrain in war time conditions.

On the second point, the damage to Billy Bishop's aircraft was, as you may know, revealed in a report dated June 30, 1917 made to the Headquarters of 13th Wing by Captain Grid Caldwell, his Flight Commander which clearly states "damage done: 17 bullet holes, trailing edge of lower plane shot away in two bays". It does not indicate whether it was the port or starboard lower plane. The fabric just ahead of the trailing edge undoubtedly began to shred after a concentrated burst and, subsequently, began to peel back to the trailing edge of the wing.

There have been suggestions by people who lack knowledge about such things that if the aircraft had been shot up to that extent in the morning, then it could not have been flown by Bishop later that day. This is a totally false statement. Had our own Nieuport 17 suffered such damage, we could have it in the air again within a few hours due to the extremely rapid drying "dope" used to attach the fabric patches. The technique we would use would be the same as in WWI. The mechanics of the time were used to this kind of problem, which highlights one of the advantages of a fabric covered aircraft.

On the third point, I am intrigued by the suggestion that any pilot would fire a machine gun into the relatively fragile structure of a WWI aircraft before flying it again. Given that the structure of the Nieuport 17 was basically a fabric-covered, wooden, wire-braced frame (with the tail assembly and ailerons having a light steel tube perimeter), - can you imagine anyone doing that? The chance of severing some vital member is quite real. If he did that, his next take-off would be his last. On the question of the missing Lewis machine gun, there are several possibilities. The Lewis machine gun on the Nieuport 17 can be swung down into a muzzle-high position by the pilot by the simple action of pulling a cable release to the front lock and pulling the butt downward to put it in a position for the removal of the empty cartridge drum and replacing it with a full drum. It is possible that Bishop found that the gun may have jammed in that position interfering with his vision and, at the same time, being in a useless position causing nothing but aerodynamic drag. It would be a simple matter to loosen the thumb screw on the main clamp, unscrew the Bowden cable and throw the gun overboard. One other strong possibility is that the gun became dislodged and twisted off its mount during the gyrations of aerial combat. I understand that this would not have been the first time that this would have occurred.

I do hope the foregoing might be of some interest and value in your deliberations.

R.W. Bradford,
Associate Director
National Aviation Museum

APPENDIX "C"

EXCERPT FROM ESSAY/LETTER FROM WALTER "FREDDIE" TO WESLEY ROGERS – APPROXIMATELY 1952

Note: Freddie Bourne is the name of Bishop's Air Mechanic in 60 Squadron, RFC. He is referred to as Walter Bourne in a book by W. Arthur Bishop The Courage of the Early Morning, and also as Walter Bourne in the stage play Billy Bishop Goes to War and in the NFB production The Kid Who Couldn't Miss. Bourne's full name was Frederick William Charles Bourne. He was buried on 9 March 1956 in St. John's Cemetery, Margate, Kent, England. The excerpt that follows, was part of a 20-page essay on Bourne's memories of Bishop, description of England's school system, labour laws, etc. The essay was sent to Wesley Rogers, son of Freddie Bourne's friend, Winnie Rogers, now (1987) 88 years of age and a resident of Thunder Bay, Ontario.

". . . In the first World War I was shot down just behind Arras. I was then a machine gunner. I was wounded in my left hand so in the end was grounded as two of my fingers were bent. I became a Mechanic. As your Mum remembers I was apprenticed as a Motor Engineer. I became Mechanic to Air Marshall (sic) William Avery Bishop V.C., D.S.O. & Bar, M.C., D.F.C., Chevalier of Legion of Honour, Croix de Guerre & Palm (Bar and Palm means twice). They called him the Deadliest air Ace and (he) was a Canadian. He got his machines down on my machines or kites as we call them today. 72 kites and 23 (sic) Ballons. He thought the world of me and would never leave for a scrap if I was not there to see him off. I was the only one to service his engine, and no one was allowed to touch his guns only me. I had to be his armourer. His words always to me before he went into the Mess Don't forget Bourne None of that God Damn Bloody!!! Yank Ammo in my drums. (Promise.) I used to fit every round of ammo into the breach (sic) of the Lewis before putting them into the drums. That was to make sure that no cartridge case stuck and caused a jamm (sic). He came over here in the last war and broadcast with Churchill, photo enclosed, (let me have it back). He wrote one or two letters to me whilst here which I have still got. In the last war he was Air Marshall in Charge of Recruiting for the Canadian Air Force. When he first came to me he was a Captain from the Calgary (sic) Cavalry and left me for England as a Colonel. He tried to get me back to England with him but was not lucky. He is the mightiest Pilot living today. There has been no one to touch his score not even in the last war. Believe me he was a game fighter. In 1930 I received a 72 worded telegram from him as he was in England. He wanted me to go and see him. I went up to see him and he introduced me to his wife. He wanted me to go out to Canada with him and service his Moth and then drive his Bently (sic) from one City both in Canada and the U.S.A. to another. He was on a lecture tour. I would not promise until I had seen my wife, but she would not go (& I think your mother will know the reason why). So I had to refuse the job that would have been the making of me, $200 a month and all expenses paid. That was a lot of money in those days. Twelve months afterwards my wife and I were parted for over 20 years. Still that was my luck in life, or as one says the fates against me. Perhaps you could do something for me Wesley. Do you think it would be possible to find out his address. I think it could be found out through the Veterans. He is well known in Canada as Canada's Biggest Air Ace of the First War and was Air Marshall in the RCAF in the last. I would sure love to drop him a line he is only 12 months older than I 58 years. He does not know that I lost my legs. Well Wes enough of this. I will carry on with another subject . . . "

THE SENATE

Wednesday, July 6, 1988

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

Prayers.

GUYANA, TRINIDAD AND TOBAGO

GOODWILL VISIT BY CANADIAN PARLIAMENTARY DELEGATION—NOTICE OF INQUIRY

Hon. Peter Bosa: Honourable senators, I give notice that on Tuesday next, July 12, 1988, I will call the attention of the Senate to a goodwill visit by a Canadian Parliamentary delegation to Guyana, Trinidad and Tobago, which took place from April 24 to 28, 1988.

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Charles Turner: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Transport and Communications have power to sit at four o'clock in the afternoon today, even though the Senate may then be sitting, and that Rule 76(4) be suspended in relation thereto.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I first apologize to Senator Turner for not having spoken to him about this, and it may be that it is all right to go ahead, but I was asked to mention to Senator Turner just a few moments ago, although I did not get a chance to do so, that there are three committees meeting when the Senate rises. If I am not mistaken, they are Transport and Communications, Rules, and Banking, Trade and Commerce. The problem is that four members of the reporting staff are away sick, and it may be that we will run a little thin on reporters. I suppose we can let this motion go, knowing that there will be some strain on the reporting staff if, for example, this committee is meeting at the same time as the other two.

The Hon. the Speaker *pro tempore:* With the caveat of Senator Frith, is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

AGRICULTURE

ALBERTA—DROUGHT RELIEF PROGRAM—SIGNING OF AGREEMENT

Hon. H.A. Olson: Honourable senators, I should like to ask a very simple question of the Minister of State for Federal-Provincial Relations. Can he advise us when he thinks an agreement will be signed between the Government of Canada and the Government of Alberta respecting the drought relief program that was announced last week? I checked yesterday and my information from the PFRA administration in Regina was that an agreement had been reached between Manitoba and Canada and between Saskatchewan and Canada. While Alberta expected to reach an agreement imminently—yesterday or this morning—he could not confirm that they did.

This matter is urgent, because after an agreement is reached the provincial crop insurance administration will handle the matter. I have not yet been able to find out whether there has been an agreement, and the people in the crop insurance administration who are to handle the applications from producers do not yet know whether they have the go-ahead. They do not know the details of the provisions in the relief program.

Although I suppose we could wait another day or two for that agreement, I am getting inquiries on whether the administration is ready to accept applications for the very welcome relief that will come from the program that was announced last week.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my information is not as current as it should be on the status of discussions between the federal government and the Alberta government. I shall make immediate inquiries and report to the honourable senator tomorrow.

THE SENATE

COST OF PRODUCTION OF APPENDICES IN *DEBATES* AND *MINUTES*

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order. I should like to draw to the attention of senators that there was published in yesterday's *Debates of the Senate*

an appendix which relates to the report of the Canada-United States Inter-Paliamentary Group. I note that in the *Minutes of the Procedings of the Senate* the same report is printed verbatim in both French and English. How many times do we have to reprint these things? I thought that this matter was debated some time ago and that we had agreed to do away with these excessive printings of the same report. That has obviously not been done.

I understand that it costs at least $35 a page to print these texts. As senators are aware, we are expected to show some measure of economy in the way we handle our business. I thought it would be useful to draw this matter to the attention of honourable senators. I wonder whether anything is going to be done about it once and for all.

NATIONAL TRANSPORTATION ACT, 1987

BILL TO AMEND—THIRD READING

Hon. Michel Cogger moved the third reading of Bill C-131, to amend the National Transportation Act, 1987.

Hon. Ian Sinclair: Would the honourable senator accept a question? Could he tell us what this bill is all about?

Senator Cogger: Yes. It is unfortunate that Senator Sinclair was not here for my brilliant, I thought, exposé last week—

Senator Frith: And an even more brilliant interjection by Senator Marsden!

Senator Cogger: —which was seconded and endorsed enthusiastically by Senator Marsden. Honourable senators, this is a bill amending the National Transportation Act, 1987 to extend to handicapped persons easier access to aircraft, airports and related facilities.

Motion agreed to and bill read third time and passed.

CANADIAN EXPLORATION INCENTIVE PROGRAM BILL

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Balfour, seconded by the Honourable Senator Robertson, for the second reading of the Bill C-137, An Act to provide for incentives to assist in financing exploration for mineral resources and hydrocarbons in Canada and to amend the Canadian Exploration and Development Incentive Program Act.—(*Honourable Senator Sinclair*).

Hon. Ian Sinclair: Honourable senators, yesterday Senator Balfour discussed this piece of legislation. As I am sure honourable senators know, he indicated that the bill is a complicated measure. In principle, it is not that complicated, but flow-through shares, of their very nature, are complicated.

While there is a transition period both in regard to hydrocarbons and mining, the allowances made under existing legislation expire at various dates during the balance of this year. People who will invest and set up flow-through share portfolios will take some time to develop the programs. While it might be looked at, there is no urgency for this legislation in view of the transition periods, which are October with respect to one part of it and the end of the year with respect to the other part of it.

Nevertheless, to enable people to proceed with these matters in an orderly way and not be left to the last minute to know what they will do, this bill should receive our attention soon.

There are some complications with regard to the impact of it in relation to the size of the firms to which it will apply. It may be that officials and the minister will be able to tell us, from the consultations that they have had with the mining industry and the hydrocarbon industry, how these consultations have gone and what issues are outstanding. If this bill were referred to the Standing Senate Committee on Banking, Trade and Commerce and we were able to have the minister and officials appear before us, then the decision could be made by that committee as to whether other witnesses would be necessary.

I take it from what Senator Balfour said that it was in his mind that the matter would be referred to the committee. I see that he is here now.

I am not disagreeing with anything that you said, Senator Balfour, I am merely suggesting that, if it could go to the Banking, Trade and Commerce Committee and we could hear both the minister and his officials, a decision could then be made as to whether we would need to have other witnesses to take us through some of the difficulties of flow-through shares and the various provisions of the act. Therefore, I hope the matter can be referred to the committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Balfour, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

• (1410)

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN)—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Macdonald (*Cape Breton*), for the second reading of the Bill S-16, An Act to amend the Criminal Code (protection of the unborn).—(*Honourable Senator Guay, P.C.*).

Hon. Joseph-Philippe Guay: Honourable senators, I am now ready to take part in this particular debate in support of Senator Haidasz on Bill S-16.

The intent of Bill S-16 is to amend the Criminal Code in order to protect the unborn. The need for such a bill has come about because of the decision of the Supreme Court of Canada

in the Morgentaler case on January 28 of this year, which declared Canada's abortion law to be unconstitutional. This decision of the Supreme Court of Canada has left the unborn with no legal protection whatsoever.

The purpose of Bill S-16, which was introduced by Senator Haidasz, is to reassert society's vital interest in its unborn children. It is the intention of this bill to give full legal protection to children from the moment of conception.

[*Translation*]

In the case of abortion, Bill S-16 provides for the same penalties as had been imposed by Parliament in 1969. They range from life emprisonment for anyone who procures an abortion to a two-year prison term for women who get aborted.

However, it provides an exception in cases where the life of the unborn human being was ended as a result of medical-treatment necessary to prevent the death of the mother or to remedy a condition that, if left untreated, would cause the death of that mother. I feel the penalties provided for in Bill S-16 are needed to extend legal protection to the unborn human being. I am convinced that such legislation will have a deterrent effect that will influence behaviour and lead to greater respect for the life of the unborn human being.

[*English*]

To those who are not convinced of the necessity of adopting Bill S-16, I should like to submit evidence presented in the case involving Joseph Borowski. Probably many of you will remember that Mr. Borowski was a minister in the NDP government of the Honourable Ed Schreyer in Manitoba.

The evidence I am about to relate was presented in this case before the Court of Queen's Bench in Regina, Saskatchewan, in May 1983 by Sir William Lily of New Zealand. Sir William is a professor of perinatal medicine and a consultant to the World Health Organization in maternal and child health, who was knighted because of his pioneer work in the field of amniocentesis.

In his testimony Sir William stated that the unborn is not part of the mother's body but a separate person, who dictates his own growth and when he is to be born. He also indicated that a fetus produces his own blood 17 to 20 days after conception, that his heart begins beating 24 to 25 days afterward and that by 35 days his brainwave activity can be recorded. With that kind of scientific evidence confirming that life begins at conception, is it still possible to deny the need to give full legal protection to the unborn? Parliament has a duty to protect all human beings, especially the mentally handicapped, the physically disabled and senior citizens. After all, we all become seniors eventually. I believe this protection should be extended to the unborn human being from the moment of conception.

I should like to turn to the argument often used by pro-choice groups who state that anti-abortionists are seeking to impose their own religious views on society. I submit that the anti-abortion stance does not rest on any particular religious faith. It is rooted in the concept of natural law that was first developed by Greek, not Christian, philosophers. This means that it is unnecessary to call on any particular religious belief to justify opposition to abortion. Indeed, opposition to abortion has existed in many societies devoid of Christian influence. The Sumerians condemned abortion about 2000 years before Christ. The Greek philosopher Hippocrates in 500 B.C. incorporated condemnation of abortion into the Hippocratic oath, which, until a couple of decades ago, was sworn by graduates of all medical schools, binding them to take every means at their disposal to protect the life of the unborn human being.

The Declaration of Geneva is a modernized version of the Hippocratic oath adopted by the World Medical Association in 1948. It states specifically, "I will maintain the utmost respect for human life from the time of conception." The preamble of the United Nations Declaration on the Rights of the Child contains these words:

> Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth . . .

This declaration, proclaimed in 1959 by the General Assembly, received the endorsement of countries with no Christian tradition whatsoever.

[*Translation*]

So we see that the anti-abortion stance is rooted in the natural law. Also, I feel it is impossible to combine the opinion of the pro-choice groups with the well-known notion that all human life has an intrinsic value. Yet, this notion is crucial since it is the basis of our individual rights. In fact, it is at the very heart of our political traditions. Have you ever noticed that many of those against capital punishment refer to the intrinsic value of all human life? Don't you see a paradox in the fact that we often use that argument to save the lives of criminals who have killed other human beings while we refuse to show the same compassion for the most defenceless being in the world, the unborn human being.

● (1420)

[*English*]

Many Canadians feel that their basic sense of decency has been deeply offended when they learn that, according to Statistics Canada, 60,956 women had abortions in this country in 1985. I would point out that Statistics Canada reports only those abortions that are recorded; in fact, there were probably many more. Remember that these abortions took place under section 251 of the Criminal Code, passed in 1969, which restricts abortions to accredited hospitals, and even then only to cases where the majority of the members of the hospital's therapeutic abortion committee have certified that the pregnancy is a danger to the life or health of the woman.

Even with such restrictions there were more than 60,000 in the one year, and now, since the Supreme Court judgment of last January, any woman in Canada can have an abortion if she can find a doctor who will perform it.

If one examines the statistics, one can see that in 1985 there were, as I said, 60,956 abortions. The statistics from 1970 to 1985 indicate that abortions are on the rise. But most disturb-

ing are the statistics showing repeat abortions from 1974 to 1982. In 1982, 400 women in Canada had their fourth abortion or more; 1,600 women in Canada had their third abortion in 1982; and 9,544 women had their second abortion in 1982. If one examines the statistics from 1974 to 1982, one will find that the situation has not changed dramatically.

We have a situation in Canada today in which all these human lives are taken on an annual basis. It is incumbent upon Parliament to deal with this issue in an expeditious way at the earliest opportunity.

Honourable senators, like so many of my fellow Canadians, I feel that the realities of abortion must be honestly assessed, taking into account a special awareness of the individual and the social consequences of this practice. To that end, I wish to draw your attention to the conclusions of an article by Raymond Michael, a psychiatric resident, and Terese Ferri, a lawyer, published in *The Catholic Lawyer*. If you want to make reference to it, it is in volume 30, number 4, page 363. I quote:

> The significance of the abortion issue in modern society cannot be underestimated. It has become the point around which two fundamentally irreconcilable sets of values have begun to crystallize. The division it represents is perhaps more profound than any other. It implies opposing views about such fundamental issues as the function of law, the purpose of medicine and the very nature and value of human life.

The quotation continues:

> One view offers a society caught in the web of its own narcissistic tyranny, which frantically seeks immediate gratification in a futile attempt to sustain its fantasies of omnipotence and invulnerability; fantasies which will ultimately crumble under the weight of a reality it refuses to face. The other holds hope for a future society which is compassionate and rational, which protects its most vulnerable and has the fortitude to sacrifice immediate gratification for the sake of the values and principles that will insure its long-term survival and betterment. The choice is ours.

[*Translation*]

Personally, I have made up my mind. I support Bill S-16 because I firmly believe that unborn human beings must be protected. However, I also believe that various levels of government must work together to develop measures which will adequately meet the needs of children and their parents. In the field of child care and low rental housing, for example, the needs are tremendous and the costs enormous. And yet, like my colleague Senator Haidasz, I am convinced that that is the price we must pay to ensure a place for children in our society.

I would like to congratulate Senator Haidasz for his courage and for having taken the time to introduce Bill S-16.

[*English*]

Hon. Sidney L. Buckwold: Would the honourable senator take a question?

Senator Guay: Oh, yes. Go ahead.

Senator Buckwold: I do not like to delay the proceedings, but there are some things that provoke a question. Senator Guay based his entire case on the fact that life begins at conception, and he started his presentation today by quoting a very learned and respected doctor who was brought over from New Zealand to testify in the case involving Joe Borowski. It was on that presentation that I believe Senator Guay based most of his facts and conclusions, but, as I recall, the court did not see it that way.

My question to Senator Guay is: What was the result of that particular court case and the decision that was rendered? Did it support the evidence given by the esteemed doctor or otherwise?

Senator Guay: That is an easy question to answer, honourable senators, because that particular case was never finalized, in view of the judgment of the Supreme Court taken in January 1988. It was never finished.

Senator Buckwold: From what I gather, and I may be wrong, it has never been finished because it is under appeal.

Senator Guay: Yes.

Senator Buckwold: Could you tell me the result of the first court case, the one to which you were referring?

Senator Guay: No. I do not have any particular reason to give you the results. You can read them as well as I can. I am one of those who support Joe Borowski. The results are plain for anyone to see. I am sure that the honourable senator from Saskatoon knows the results as well as I do.

Senator Buckwold: I have already given my indication of the results, namely, that the case was lost and that the evidence did not particularly impress the court. All I wanted you to express was the fact that that was the way the case went. I just wanted to make sure that, for the record, we did not leave untouched the argument that you have presented—in other words, the evidence of this particular doctor.

● (1430)

Senator Guay: I am not a lawyer; however, I will say that I think Joe Borowski did a good job. Senator Buckwold is familiar with the details of the case; although Senator Buckwold thinks Joe Borowski is finished, I do not think so.

As I said, the case was never finalized. Even though Senator Buckwold is drawing the conclusion that Joe Borowski lost the case, I say that he did not, that he did a good job and that he ought to be complimented for bringing the matter as far as he did.

I am sure that, if the appeal is brought forward, he will be given more consideration than he received in the past. The Charter of Rights and Freedoms makes a big difference. I wish someone would look at the Charter of Rights and Freedoms in this regard. I think that the unborn should be considered human beings, just as the rest of us are.

On motion of Senator Kelly, debate adjourned.

CANADA AGRICULTURAL PRODUCTS BILL

SECOND READING

Hon. Brenda M. Robertson moved the second reading of Bill C-141, to regulate the marketing of agricultural products in import, export and interprovincial trade and to provide for national standards and grades of agricultural products, for their inspection and grading, for the registration of establishments and for standards governing establishments.

She said: Honourable senators, I am pleased to speak today in support of Bill C-141, the Canada Agricultural Products Bill. With this legislation, this government is acting on another promise to Canada's farmers and the agri-food industry.

This legislation will enhance our ability to market our agricultural products at home and abroad and it will offer increased protection for consumers.

I can assure the members of this chamber that there is broad support for this legislation within the agri-food industry. In fact, 26 national organizations support this legislation. These include the Canadian Federation of Agriculture, the Retail Council of Canada and the Consumers' Association of Canada.

Support for the bill is especially strong in the horticultural sector. This sector is comprised of more than 27,000 fresh fruit and vegetable producers. Horticulture makes a significant economic contribution to every Canadian province.

The Atlantic region produces about 14 per cent of the farmgate value of all Canadian fruits and vegetables. It leads in the production of all types of potatoes. Quebec accounts for 15 per cent of Canada's horticultural crops. It ranks first in the production of carrots, lettuce and celery. Ontario's horticultural sector is highly diversified. It represents almost 44 per cent of total Canadian production. The prairie provinces have recently developed a horticultural sector of their own. About 8 per cent of Canada's horticultural products is now produced on the prairies. British Columbia, with its Okanagan Valley and fertile lower mainland, produces about 16 per cent of Canada's horticultural crops. Honourable senators can see that Bill C-141 is truly in the national interest.

Canada's fruit and vegetable growers and handlers are counting on members of this chamber to give swift passage to this legislation. With the approach of the new crop season, the Canadian Horticultural Council and the Canadian Fruit Wholesalers' Association consider Bill C-141 essential to continued orderly marketing and stability.

Times change, but the legislation governing our agriculture standards has not. The Canada Agricultural Products Standards Act exists almost in its original form.

The CAPS Act was passed in 1955. It consolidated previous legislation to set national standards and regulations for international and interprovincial trade in agricultural products.

● (1440)

Honourable senators, there are long-standing deficiencies and ambiguities in this law. It is impractical—in some cases impossible—to enforce.

Canada must bring regulations governing agricultural products up to date. This new legislation—the Canada Agricultural Products Act—will help the entire agriculture industry, and especially the horticulture sector, move boldly into the future.

Since 1955 domestic production of fruits and vegetables has increased tenfold. Fruit and vegetable production has an annual farmgate value of almost $1.7 billion. In 1955 imports of fresh fruits and vegetables were valued at $88 million. These imports are now worth more than $1.1 billion.

Fresh fruits and vegetables must be marketed very shortly after harvest because of their perishable nature. When product is ready, it must be shipped without delay. The sooner it is sold, the higher the quality.

Canada's fresh fruit and vegetable producers are vulnerable to surplus products dumped on our domestic markets. These surplus products are shipped to Canada prior to being sold. In the trade, these loads are called "rollers". They are often sold at depressed prices, in direct competition with Canadian production and pre-purchased imports.

Rollers must meet minimum import quality standards when they enter Canada, but they often arrive in less than top condition. This means shelf life is reduced, and consumers are often disappointed in the quality of the produce. This suspect freshness and quality of rollers often leads to disputes between shippers and receivers. The two parties can be at odds over prices for deteriorating produce. The Canadian Board of Arbitration, with authority under the CAPS Act, is one means by which these types of disputes may be resolved. The board reports a greater incidence of consignment sales of imported produce, and it is increasingly being called upon to resolve disputes about prices for produce that is well beyond its peak of freshness.

If we were not to take steps to ensure proper marketing procedures, there could be a major impact on Canadian fruit and vegetable growers. They could suffer a measurable loss of market share and no doubt some would be forced out of business.

When the CAPS Act was introduced in 1955, it consolidated a number of existing acts, including the Fruit, Vegetables and Honey Act. However, the import provisions regarding consignment selling—sections 56 and 57—were not consolidated but remained under the Fruit, Vegetables and Honey Act. These sections required importers or their brokers to provide evidence that shipments of produce were purchased within 24 hours of the time of shipment from the point of production. If no such evidence was provided, shipments were turned back at the border by Canada Customs.

For over 40 years these regulations controlled imports on a consignment basis. In other words, imports could only enter Canada under a prior-purchase agreement. However, in January of 1983 we hit a bump in the road and the wheels fell off our regulations. As part of its overall review, the Joint Committee on Regulations and other Statutory Instruments examined the Fruit, Vegetables and Honey Act and ruled that the act lacked the enabling authority to regulate consignment

selling. For more than five years these regulations have not been actively enforced.

Bill C-141 would reintroduce the authority to regulate consignment selling of fresh fruits and vegetables. These regulations would apply to both imported produce and produce grown here in Canada.

Consignment sales are especially worrisome to Canada's tender fruit producers. Fresh fruit such as cherries and peaches must go to market right after harvest, and in Canada there is a relatively short season for these fruits. It would be a severe blow to these producers if large consignments of tender fruits were allowed to enter their traditional markets during this time.

I assure the members of this chamber that Canada can reintroduce regulations to control consignment selling without in any way undermining our trade agreement with the United States. Canadian negotiators made our position on this matter very clear to the American side when we worked on this agreement. The Americans fully understand that we will proceed with this action. Since the agreement was announced this government has openly and consistently stated its intention to proceed with this legislation. It is no surprise. It is not a threat to the bilateral agreement, and it conforms with Canada's international rights and obligations under GATT.

Under Bill C-141, the Canadian Board of Arbitration and Review Tribunal would be maintained. This will ensure that the system continues to work fairly for dealers and buyers of fresh fruits and vegetables. The board will consider complaints against dealers and provide rulings in accordance with the act. The tribunal will hear any appeals against the board's rulings.

There is also a need to provide flexibility in the act to permit exemptions where enforcement of the legislation is undesirable or impractical. For example, trial marketing of new products or packaging could be hindered without controlled exemptions from the requirements of the act and its regulations. In addition, fresh fruit and vegetable packers and processors sometimes require temporary exemptions from packaging and grade requirements when Canadian produce is not available. These exemptions permit the movement of bulk produce which is otherwise controlled by regulations, allowing orderly and efficient marketing between provinces and between Canada and other countries.

● (1450)

The new legislation will also provide the authority to establish grades and grade names, packaging and labelling requirements and fees. The trademarking of federal grade names will make Canada's inspection system more effective and credible. It will also benefit the consumer by ensuring consistent quality of safe agricultural products.

Improved control of products imported or traded interprovincially will protect consumers from products that do not meet our health and wholesomeness standards. Additional provisions will allow Agriculture Canada to respond to developments in the agriculture sector and provide authority for cost recovery and privatization.

Proposed revisions will increase penalties established in 1955 and provide a general updating of the act similar to revisions made to the Meat Inspection Act in May of 1985.

To ensure the use of fair and ethical trading practices and the orderly marketing of safe, wholesome agricultural products, it is necessary to improve the licensing of dealers of agricultural products. We must clearly identify the terms and conditions under which they operate. There must be no ambiguity about the registration, maintenance and operation of dealerships.

Honourable senators, the Canada Agricultural Products Act will update the current provisions governing trade and product standards. Outdated legislation will be replaced by a law that can help guide the agri-food industry into the 21st century. Bill C-141 will help to maintain order and stability in the marketplace. In addition, improved regulation of agriculture exports will enhance Canada's reputation as a supplier of safe, wholesome, high-quality food and will help to maintain and expand export markets.

This is much-needed legislation, honourable senators, and it deserves the support of this chamber.

Hon. Eymard G. Corbin: Honourable senators, I apologize to Senator Olson, who wishes to speak, but I shall be brief. I understand that we are going into Committee of the Whole on this bill this afternoon. Would it be asking too much of Senator Robertson to request that she have her speech photocopied and distributed? Much as I wanted to follow her, she spoke rather quickly and there are some points I wish to raise with the minister. It would be helpful if we had the text of her speech before us as we go into Committee of the Whole.

Senator Robertson: Honourable senators, I will see that that is done immediately.

Hon. Dan Hays: Honourable senators, I should like to say a few words about Bill C-141 at second reading. Senator Robertson has done an excellent job in providing an overview of the effect of this new legislation. It is not entirely new in that it replaces an existing act, but it is new in many respects. Senator Robertson also outlined that this is an extraordinary piece of legislation in that it must be dealt with very quickly. The fact is, however, that a number of aspects of this bill really ought to be studied in some detail. I appreciate that this cannot be done because of the extraordinary circumstances, but perhaps I could highlight some of my concerns about this process.

Honourable senators, I have no objection to our proceeding with this legislation in a timely manner. I understand that we are to go into Committee of the Whole this afternoon and I have a few questions for the minister and his officials. I do not intend to duplicate what Senator Robertson has already covered, but, as I said, I would like to highlight a few of my concerns.

This bill amends one of seven acts in the agricultural sector—the one dealing with standards and standardization—that must be amended under the terms and conditions of the Free Trade Agreement. In the House of Commons much was

made of the fact that this legislation was brought forward on June 30 and given first, second and third reading, as well as committee treatment, in one day. That was done for the very reasons we are being asked to do the same here.

Under the circumstances, it occurs to me that it would be well if the government tried to assist those of us in opposition by including us in any briefings that might be held. I am not sure whether such briefings were held—perhaps Senator Robertson found herself at the same disadvantage as I, in having simply to rely on the *House of Commons Debates*, on the bill and on whatever other material she could gather to inform herself.

In the normal course, first, second and third readings would take sufficient time to give us ample opportunity to look into the legislation. But I did want to put on the record a request—which is directed to the leadership on both sides, I suppose—that in future, under such circumstances, it would be a good idea to hold a joint briefing, as was done in the opposition lobby of the House of Commons at 11 o'clock a.m., June 30. That briefing was mentioned in the *House of Commons Debates* at page 16978.

Let me say, in support of what Senator Robertson has put before us, that, in the horticultural area—particularly in the tender fruit area and specifically referring to cherries—there is good reason to pass this bill on an urgent basis so that the act can be proclaimed and regulations promulgated as quickly as possible. This will deal with an unfair competitive situation that caused great harm to some horticultural producers last year, particularly those in the cherry sector.

A year or so ago we dealt with an amendment to the Farm Improvement Loans Act in a similar way. If I may, I will pass on to senators observations made in the house at that time. That act was passed on an urgent basis, but it was not proclaimed for eight months. With the benefit of hindsight, it is obvious that the reasons given for dealing urgently with that legislation were wrong. I am not saying that anyone was misled, but it is my hope that that will not be the case with this bill. One of the things I am anxious to have put on the record here in Committee of the Whole is the minister's intent to proclaim this legislation quickly and pass the necessary regulations to deal with the problems that are the reason for this extraordinary treatment.

With those few comments, honourable senators, I shall conclude, except to say that I look forward to asking a few questions of the minister and his officials in Committee of the Whole.

Hon. H.A. Olson: Honourable senators, I merely want to intervene briefly in the debate at second reading. I know that we will have an opportunity to ask the Minister of State for Agriculture some questions.

I want to say at second reading that, since the act allowing the administration to draw up certain regulations was struck down by the committee, I fully support the notion that we must have in place a statute under which regulations can be drawn to deal with a number of matters. One such matter is sometimes referred to as "consignment selling". That is probably just a fancy term for the practice of dumping surplus—and it is not always even surplus—American products onto the Canadian market simply because we are farther north and our crops are harvested later. There have been many occasions on which the tail end of their production, which they are anxious to get rid of, has been dumped, although the practice does not quite fit the technical interpretation of that word, because the products are probably not sold in Canada at a price lower than that at which they are sold in the United States. What happens is this: When the U.S. producers have passed their peak in terms of marketing—and this is in relation to potatoes, lettuce and many other crops—those products hit the Canadian market at the peak of our season. Consequently, the entire market in Canada is depressed. I am certainly in favour of putting in place some new statutory authority so that the government can make and enforce regulations to deal with that situation. It would only need to be for a certain number of weeks in any year, because during the rest of the year, obviously, the Canadian consumer should have a right to buy these things as cheaply as possible. But, in fairness, if we do not have regulations to deal with this situation, we will put our whole industry out of business. That can happen in places like southern Alberta, for example, or British Columbia, unless there are some rules.

• (1500)

While we want to endorse that aspect of this legislation, we realize that, when we are asked by Senator Robertson to give swift passage to this bill, what she is really asking—and I will not resist it today—is that we do not ask the industry what they think of the way Bill C-141 is written. We are probably willing to do that, but in passing good legislation we should have had a few committee hearings and called in some people from the industry—the growers, the processors, the brokers and the rest of the marketers—to find out whether their experience indicates that the provisions in Bill C-141 are adequate to do the job that needs to be done, in fairness to both our consumers and our growers. However, we do not know that, so we will forgo that.

I should like to ask the minister some questions about how he intends to handle the making of the regulations, because he said in the other place that he would have all the regulations ready for proclamation within two weeks. That may be enough time so that the problem that the cherry producers had last year can be avoided, but there are a whole lot of other products coming on the market at various times in the year where these kinds of regulations are also needed.

I want to conclude by saying that, while we support the kind of authority asked for in Bill C-141, there are some problems in passing it all in one day. I hope the minister will give us satisfactory answers to show that the consultation with the industry has been extensive enough to ensure that what is in Bill C-141 is the correct thing. Some of us may have some ideas on what should be there, but we have not gone through the detailed analysis of it—at least I have not done so recently

to satisfy myself that it is appropriate to meet all the conditions that need to be met.

Hon. M. Lorne Bonnell: Honourable senators, I rise to say a few words about Bill C-141—especially since the promoter of this bill is from that great province of New Brunswick. The province of Prince Edward Island is also badly affected by this bill in relation to potato inspection.

Prince Edward Island exports approximately 95 per cent of its potatoes. Because of that, it has to have them inspected. New Brunswick exports a good percentage of its potatoes, and those potatoes must, as well, be inspected for export. Until September 1984 the federal government paid the inspection fees for inspectors and that was done free of cost to the producers. In the fall of 1984 the federal government changed the policy and charged the farmers and producers for inspecting their potatoes for export.

When it came to provinces like Ontario, they could not grow enough potatoes for themselves. Therefore, they imported potatoes. Quebec and the western provinces did the same, so they were not affected by that change in policy. The only provinces in Canada that were affected by it, by this extra charge, were New Brunswick and Prince Edward Island.

Can the promoter of this bill tell me if the inspectors appointed under this legislation will be paid by the federal government and not by the producers, especially concerning potato inspectors in Prince Edward Island, where it is expensive for potato farmers who are having a hard year because of the drought? The Minister of Agriculture refused to assist the farmers of Prince Edward Island with their drought problem, although help was available to western farmers.

Again, in Prince Edward Island, we have been jeopardized by paying special fees, because potatoes have to be exported outside our province. Because the potatoes go from one province to another, they are considered to be an export and we must pay special fees. Could the promoter of the bill tell me if, under this bill, that will be done away with and the federal government will now pay the full fee for the inspection of these potatoes?

Senator Robertson: Honourable senators—

The Hon. the Speaker *pro tempore:* Honourable senators, I want to advise the Senate that if Senator Robertson speaks now her speech will have the effect of closing the debate on the second reading of this bill.

Senator Robertson: —I appreciate your remarks and general support for this legislation. I also appreciate the difficulties that we have. When we do not have the opportunity to make a proper assessment of legislation, it can be difficult, and I understand your concern.

In response to Senator Hays' suggestion of briefings, I am sure it would be well received by the department. I have been advised that we do not have to worry about the proclamation of this piece of legislation, Senator Hays, because the proclamation will coincide with Royal Assent. The Deputy Leader of the Government suggested this morning that we will probably have Royal Assent on this bill—if it gets through today and tomorrow—tomorrow evening if we receive that kind of support. So it would be proclaimed at the time of Royal Assent.

Senator Olson, there is a wealth of support for the bill, as I have mentioned. There have been many consultations with various organizations in Canada. The minister can give you better details on that than I can. I have been advised that there are 26 national organizations that actively support the bill. The Canadian Federation of Agriculture, for instance, and the various producing organizations have been supportive of this bill. So it seems to have been drafted in a manner that meets their concerns and expectations.

I am also advised that the regulations have been drafted as far as they can be until the bill has Royal Assent. It would be a matter of a few days for the rest of the regulations to fall in place. I understand that the staff have been working hard at drafting as many regulations as possible, using the consultative process as well; so that that should not take long. Again, you may wish to ask the minister about that; he will be here at your pleasure.

Senator Bonnell, concerning potato inspectors, I believe your problem has been resolved. I asked about the inspection and whether it would generally be looked after by the federal government. I was advised that, yes, that quirk in the delivery of inspection services that we have down home will be accommodated, but we should ask the minister again when he comes. I would side with you; I hope it has been accommodated. But, generally speaking, inspection services are being provided by the federal government.

Honourable senators, that is all I wish to say at this particular point. Since we will hear from the Minister of State for Agriculture shortly this afternoon, you can put more direct questions to him then and you will have your answers given more explicitly by the minister.

Motion agreed to and bill read second time.

● (1510)

REFERRED TO COMMITTEE OF THE WHOLE

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

Hon. Brenda M. Robertson: Honourable senators, I move that the bill be referred to a Committee of the Whole and that the Senate do now resolve itself into a Committee of the Whole for that purpose.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Robertson, seconded by the Honourable Senator Bazin, that this bill be now referred to a Committee of the Whole.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

CONSIDERED IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Senator Bélisle in the Chair.

Pursuant to rule 18 of the Rules of the Senate, the Honourable Pierre Blais, Minister of State for Agriculture, was escorted to a seat in the Senate chamber.

The Chairman: Honourable senators, the Senate is now in Committee of the Whole to take into consideration Bill C-141. Senator Doody, will you introduce the minister?

Senator Doody: Honourable senators, it is my pleasure to welcome to this committee today the Honourable Pierre Blais, the Minister of State for Agriculture, and his officials. I am sure that the minister will be delighted to answer any questions that you may have, and I am sure he will introduce his officials to you.

The Chairman: Honourable senators, before asking the minister, the Honourable Pierre Blais, to make a statement, if he has one to make, I have on my list Senator Olson, Senator Bonnell, Senator Hays and Senator Corbin.

Mr. Blais, do you have an opening statement? If you have, you may remain seated while you make it.

Hon. Pierre Blais (Minister of State for Agriculture): Mr. Chairman, in my opinion, this is a straightforward bill and you already have in your hands all of the details. Therefore, I really do not need to make a statement, but if you want to ask any questions on the bill I will be available to answer them. However, the bill is a fairly technical one and I want honourable senators to be aware of the consequences of asking technical questions.

The point of this bill is to formalize a situation that, in fact, is in existence right at the moment.

[*Translation*]

We now find in the legislation provisions that have already been declared *ultra vires*. We must make the law and especially the management of this sector comply with this bill. That is what makes this bill more technical. To a certain extent, we have to do some things and assume some responsibility for Canadian fruit and vegetable producers. That is the main purpose of this bill.

[*English*]

Now, honourable senators, I am here to answer any questions you may have and my officials are also here to assist me in answering.

[*Translation*]

The Chairman: Thank you, Mr. Minister. Feel free to answer in the language that is easier for you.

[*English*]

Honourable senators, I should now like to call upon Senator Olson to begin the questioning.

Senator Olson: Thank you very much, Mr. Chairman. I also want to welcome the minister to this chamber. I am sure that he is now prepared to give us some explanations on Bill C-141, which he has just described as a very technical bill. However, this bill will be the basis, I hope, on which he will make some regulations that will have a very practical effect upon a number of producers in Canada. The bill will deal with consignment selling and various other matters. There are a great many questions I could go into, but on the first round I want to deal only with that point.

First of all, I would ask the minister whether his department has prepared a set of regulations to deal with those crops that are coming into season fairly soon. If so, will those regulations be ready in time? However, my question goes rather further than that. For example, there are greenhouse operators who produce certain horticultural crops, such as tomatoes and cucumbers. Prior to the forerunner to Bill C-141 being struck down or declared *ultra vires* there existed what were called seasonal tariffs. That meant that the greenhouse operators of the crops to which I referred earlier knew in advance when there would be some protection against crops of like produce being dumped, or large quantities being shipped into Canada, and they would have a certain number of weeks at the peak season in which to sell their ripened crops out of their greenhouses.

In view of the fact that some of the seasonal tariffs and the authority for making those kinds of rules were struck down when the forerunner to Bill C-141 was declared *ultra vires*, will this seasonal window for the greenhouse operators continue?

• (1520)

Mr. Blais: Senator, we are already in the process of having full discussions with the processors and with the industry regarding the regulations. I think the regulations will be ready within the next ten to fourteen days. Therefore, they will be in place immediately after the bill is passed, if it should pass. We have tried to work very hard and very quickly on this matter because we know how important it is to the growers during their season.

Senator Olson: I appreciate that. Mr. Chairman, perhaps the minister and his officials could explain to us just how this bill will work.

For example, Mr. Minister, what kind of regulations do you intend to make and how enforceable will those regulations be in a practical sense? Let us say, for example, that some producers in California or Arizona are shipping the last of their new potatoes and those potatoes arrive in Canada right when our potato harvest is in full swing and our own produce is coming to the market. According to this bill, there is a 24-hour period during which anything shipped in must be sold to someone, otherwise, under clause 17 or 18 of the bill, that shipment can be seized or required to be shipped back out of the country. I think that is what those clauses mean.

However, perhaps I should not guess at what this bill is intended to do. It would probably be better if you just explained to me what it is your intention to do under the

regulations, because I have some knowledge of what has happened in the past.

[*Translation*]

Mr. Blais: Your question gives me a chance to clarify and perhaps elaborate on the specific purpose of these regulations. We want to prevent massive imports, whatever the season, of products such as potatoes, tomatoes or other vegetables—in some cases of inferior quality—from depressing prices in Canada. The risk is always there. These regulations will enable us to control access, marketing and retail sales of products so that we can compete with our own Canadian products and keep prices at a level consistent with the expectations of Canadians. I think that is perhaps the most important aspect of this bill.

[*English*]

Senator Olson: Mr. Chairman, I will be a little more specific. The practice in, let us say, Arizona or California is that when they harvest the field they unload it immediately into warehouses, or into refrigerator cars and trucks if they are shipping it. If the crop is shipped, some of it may be sold in Omaha, some in Chicago, some in Buffalo or wherever. If it is not sold off by the time it gets near the Canadian border, then in some cases they continue on across the border without an invoice attached to the shipment. Obviously, if it is a perishable product, such as tomatoes or lettuce, there are only a few days left in which it is marketable. The price keeps going down as the shipment moves north. By the time that product crosses the Canadian border, although it may not fit the technical interpretation of dumping, the price is much lower than it was farther south. One solution in the past was that such a shipment had to have an invoice containing a date and price in order to enter Canada. Do you hope to reinstate that practice as a result of the authority flowing from Bill C-141?

[*Translation*]

Mr. Blais: Honourable senators, I can inform you we intend to maintain the same formula that has enabled us to protect Canadian producers in the past. We are discussing this at the present time with the industry. The regulations will be in line with the existing ones. Protection will be provided, and the procedure will be about the same as it was before. Technically speaking, there will be no changes.

[*English*]

Senator Olson: In your discussions with the horticultural industry, have they indicated that they believe that this kind of regulation will satisfactorily solve some of the unfair marketing practices they were subjected to in the past?

[*Translation*]

Mr. Blais: This legislation is receiving massive support from all parties. They all agree with our proposals.

You know as well as I do we cannot always deal with problems as they arise, but we will at least have the legal tools to act quickly. This bill is the result of requests made by the Canadian horticultural industry. I think we will have an instrument that will be very practical for our purposes.

The industry agrees. Since we consulted with the provinces and with all other parties concerned, I think that technically we are meeting the needs of all concerned.

[*English*]

Senator Olson: Mr. Chairman, I have one final question for now. Inasmuch as both the other place and this place are dealing with all three stages of this bill, including the committee stage, in one day and are passing it because of the urgency that has been expressed to have the regulations in place and in effect in time, when you have completed those regulations and have had an opportunity to see whether or not they are working well, would you be prepared to find some way of appearing before the Standing Senate Committee on Agriculture and Forestry with regard to those regulations? Perhaps we could call in some people from the industry to find out whether they are working satisfactorily. Will you give the undertaking that you will come back sometime, if we give the bill speedy passage now?

[*Translation*]

Mr. Blais: Honourable senators, I am not very familiar with the Senate. This is my first, and maybe my last visit to this august assembly. Technically, if there is no problem, I am quite willing to come and explain these regulations to anyone who wants to know more about them. We can certainly discuss the matter.

This is the kind of technical question I am not used to answering, but I imagine it could be done.

I will discuss it with Mr. Wise, because he is actually responsible for this area. I will be discussing the matter with him anyway because we are going to work together on the implementation of these regulations. And we must act quickly.

On the face of it, I have no objection. Perhaps Mr. Wise will come if he is available.

[*English*]

Senator Olson: I can understand your point, and I appreciate your saying that you would like to come back to the Senate sometime in the future. You may take what I said as an invitation to come back to find out how the rules of this place work.

Mr. Blais: I would be interested in learning more about how the Senate works. I can assure you of that.

Senator Bonnell: Mr. Chairman, my question has to do with potatoes, because I come from Prince Edward Island. Since 1984 the farmers in the province of Prince Edward Island have had to pay for the inspection of their potatoes. Since about 95 per cent of the potatoes grown on Prince Edward Island are exported to other provinces or other countries, these inspections are a large expense to the farmers. Will the Government of Canada, under this legislation, pay for the inspections of horticultural products, and specifically for the inspection of potatoes in Prince Edward Island and New Brunswick, two provinces that export a great percentage of their crops to other provinces and other countries?

● (1530)

Mr. Blais: I can understand that inspection costs can be high from time to time, although I do not know the specific details. We are very proud of the system of inspection in Canada. It is the best system in the world. I can say that the system for the inspection of potatoes from Prince Edward Island will remain exactly the same.

[*Translation*]

I might mention that there are sometimes costs associated with the inspection sector as a whole. You are probably aware that we have from time to time encountered problems in the past few years with some of the products we have exported. You can easily appreciate the potential damage to our agricultural sector when exported products are found to fall short of the required standards of quality.

We have, in fact, in some cases, suffered setbacks in international export markets because some products did not measure up to those quality standards. That is why we have maintained and will continue to maintain inspection standards at a very high level.

As far as costs are concerned, will producers have to continue to foot the bill? Nothing has been changed in the present structure. They must absorb a part of those costs. No change has been proposed.

I have no specific information on new reactions on the part of producers' associations. To my knowledge, the groups that were consulted, including producers, were favourable to the changes proposed. Concerning this specific point, I have not really heard of any negative reaction on the part of producers.

I can assure you that there is no change and that we are going to maintain the high quality of our inspections.

[*English*]

Senator Bonnell: I want to congratulate the department for its high level of respect for standards. I think that is good for the industry, for agriculture and for Canada. I believe that must be maintained. However, up until 1984 the government paid the wages and expenses of those inspectors. In September of 1984 the Government of Canada changed the policy so that those expenses are now charges to the producers in Prince Edward Island and New Brunswick. Those two provinces export most of their products, their potatoes, because the other provinces do not grow enough potatoes to feed their own people. Consequently, the poorest provinces in Canada are paying these high costs for the inspection of their farm products.

Under this bill, is the government giving consideration to paying the expenses of the inspectors? Those inspectors are appointed by the federal government and they are governed by federal rules and regulations, so why should the federal government not pay their salaries? Regardless of that, the poor producers of Prince Edward Island and New Brunswick have to pay the piper.

[Senator Bonnell.]

[*Translation*]

Mr. Blais: To reply to that question, I must remind you that what has been put in place since 1984 is a general cost recovery policy. It was discussed, it was analysed, and it is not the purpose of this bill as such.

I agree with you that there have been certain negative reactions from time to time on the part of producers throughout Canada. As a Government, we concluded that this was a good policy.

I must also remind you that it does not apply specifically to Prince Edward Island potato producers, but that it applies everywhere in Canada, to all sectors. This cost recovery policy also applies to meat grading, to fruit and vegetables, in Southern Ontario and in the Montreal region. It also applies to the Atlantic provinces and to the Pacific region, to British Columbia.

Although I am aware of the factor you mentioned, Senator, the fact remains that it is part of a general policy that has been adopted for Canada as a whole. I recognize that it is not a part of this bill as such or of the purposes it seeks to achieve.

[*English*]

Senator Bonnell: Do you think that the government would accept an amendment to this bill to include a clause to provide for payment to the inspectors to be made by the Government of Canada?

[*Translation*]

Mr. Blais: I would add to what I have said previously that even though the cost recovery policy has from time to time provoked some reactions, it was still accepted by the vast majority of the sector.

I must point out that the change you are talking about would indirectly modify a policy implemented by the government only two or three years ago. To some extent, I think that we would be taking some unexpected steps. In a roundabout way, we would be—I wouldn't say creating an unfair situation, but dealing with this problem in a fashion somewhat different from what appears in some other legislation.

It is not easy to answer that question in only two or three minutes, since we are not discussing the main object of the bill. We would nevertheless have to study all the cost recovery legislation currently applicable to the agricultural sector.

You are aware, maybe even better than I am, of all the legislation applying in this case. The object of this bill is to be in harmony with all the other statutes governing the meat inspection sector, and also with the Charter of Rights and Freedoms. We haven't even touched that issue.

Such an amendment would change the whole object of the bill. We surely have not discussed that seriously. It would go against the guidelines we try to follow, here as well as in the other chamber I suppose, in terms of consulting the people of Canada and the various persons involved.

I think that would go further than the current objective of the bill. I am not saying that the cost recovery procedure which has already been considered is constantly under scruti-

ny. We have already made some changes since 1984. In some sectors, as you undoubtedly know, our activities in the world market are growing, and throughout the years we will often have to review our general cost policy affecting producers as well as processors.

The Chairman: Senator Corbin.

Senator Corbin: I thank you, Mr. Speaker.

For your information, sir, as a senator from New Brunswick I am particularly interested in the potato industry.

I feel that this legislation is being rammed down our throats. I have many questions for you, but I will stick to essentials, based on the complaints I have received, especially during my 16-year career as a member of Parliament.

Having kept in close touch with the potato industry, I am quite familiar with it just as Senator Bonnell knows quite well the potato growers in Prince Edward Island.

I don't know if you have the text of the speech made by Senator Robertson on second reading of the bill but, in any case, I will quote an excerpt from it. She said:

> There is also a need to provide flexibility in the act to permit exemptions where enforcement of the legislation is undesirable or impractical.

In the following paragraph, she said:

> In addition, fresh fruit and vegetable packers and processors sometimes require temporary exemption from packaging and grade requirements when Canadian produce is not available.

The words I have trouble with are: "when Canadian produce is not available".

Potato processors in the Atlantic region have in the past invoked that argument to get from the government permission to import in bulk American-grown potatoes although the real problem was a dispute over prices with the producers.

What guarantee does this legislation give us against this kind of argument, which on occasion is less than truthful and which strains people's credibility.

Mr. Blais: Mr. Chairman, I am glad Senator Corbin raised this issue. As a former member of the House of Commons for several years, you are certainly aware that this problem does not exist only in the potato industry and the fruit and vegetable industry. I suggest it is the government's responsibility to make sure that processors and producers can operate with a measure of freedom. It should intervene only if one or the other of the interested parties does not follow the rules of the game.

If I may, I should like to use as an example the poultry industry, which is not bound by those rules, where processors often ask producers for poultry of a certain weight, say, three pounds and a half or four pounds and a half, when they know that they are not available. The next day, or the very same day, they may change their minds and ask the Department of External Affairs to import, maybe not in bulk but in large quantities, cheaper goods from the United States. We have to watch them.

In the case of poultry, the Canadian Marketing Board keeps an eye on this type of transaction. The Department of External Affairs has means to do that.

We are experiencing the same kind of situation possibly with potatoes, fruits and vegetables. We have the necessary means to make sure that the parties are playing fair and that we are not taken for a ride.

I am not in a position to state outright that there will be no sinners tomorrow morning in the Canadian food industry. Some people will probably try to by-pass the legislation! The purpose of this bill is to update the legislation and make sure that our controls can prevent this kind of thing.

You will probably agree with me when I say that if the problem you raised occurred in the past, it is certainly less frequent nowadays. Efforts are being made at least to limit as much as possible this type of situation. It has become the exception.

I admit that our responsibility is to watch out for this kind of thing. We are trying, as every government should. I cannot guarantee that some people will not try to abuse this bill whose objectives, you will surely agree, are certainly praiseworthy under the circumstances.

Senator Corbin: Mr. Minister, I understand quite well your example with the poultry industry. It is an industry which is well structured and organized. It is an industry where the producer is protected.

Such has not been the case in the past and such is not the case now in the potato industry. All sorts of strong-arm tactics and pressures are being used to set up a potato marketing board in Eastern Canada. It is not easy and I suppose you know something of this.

In my opinion, this does not prevent the type of situation which occurred in the past. Such a situation may repeat itself as long as we have no marketing board and as long as the parties involved, whether producers, processors or shippers, do not agree on basic rules.

I have always been suspicious of the exemption power granted to the minister or his officials acting on his behalf. You touched on this point a moment ago. People are under pressure, and as human beings, they are fallible. They create situations which generally benefit processors at the expense of producers. Producers always foot the bill, especially in times of surpluses. They did in the past anyway. Let us say that I raise the red flag on this issue. It is a problem which I shall continue to monitor closely. I suggest that if these new regulations do not succeed, with the potential establishment of a potato marketing board, in ensuring the orderly management of this industry, we will have to deal again with this in the near future.

Mr. Minister, do you have the required personnel to implement this legislation?

Mr. Blais: Mr. Chairman, I appreciate those remarks on the potato industry. I understand that it is not the specific purpose of the bill. I think you will recognize with me the combined efforts in that area. It is not easy. Unfortunately, we cannot say too much on the issue currently before the courts. We did

not really want things to get that far. We will spare no efforts to ensure stability in that sector. I am personally very receptive to your comments.

As for what you referred to, the somewhat flexible implementation of the legislation could sometimes allow for greater flexibility and more temporary exemptions for some processors. We are still seeking the Horticultural Council's advice on this issue. We are working very closely with federations which also include producers.

We must remain careful. You will no doubt agree with me that we must maintain a balance between the processors and the producers. For instance, if a processor doesn't have the basic material he needs to provide work for his hundreds of employees, we would do a disservice to society by forcing him to lay off his whole staff simply because the goods to be processed are temporarily unavailable even though the producer has a specific market. We must take this into account although our first priority would be to ensure our producers' survival.

All personnel needed to implement the legislation is in place since there is no real change to what already exists. We should be able to meet the requirements, as we did in the past, and we will take the necessary measures to improve or increase staff as needed.

Senator Corbin: Mr. Minister, I asked you this question in connection with the deregulation of the trucking industry in this country. For all practical purposes, our borders are now wide open. I think we will be exposed to larger volumes of traffic of the kind that concerns us here, and I am referring to dumping or pseudo-dumping or whatever we are supposed to call it. The problem is mainly with consignment selling.

As you know, trucks don't like to travel empty. When a Canadian truck goes to the United States, if it can come back with a full load of cherries, tomatoes or cucumbers, it will, even if a buyer still has to be found. So because of the deregulation of the trucking industry, I think there will a lot more consignment selling of imported products. Hence my next question: Do you have enough staff at the border to handle the increased volume?

Mr. Blais: You are referring to a problem that tends to fluctuate. As trade expands between our two countries, obviously imports and exports of fruits and vegetables or agri-food products between our two countries will continue to increase. I think this is dictated by the present state of the market.

In this respect, we work closely with Canada Customs. We have harmonized our inspection methods with customs procedures. We have also harmonized them for other industries, and I was referring earlier to meat inspection.

So far, I have no information that we might have a shortage of personnel or be unable to meet demand.

I realize that increased truck traffic between our two countries may involve more entries of products, just as it will increase the volume of products leaving the country. We have a duty to ensure that the law is observed at all times. I did not mention this specifically, but you mentioned that we might get products that are not always top quality, and we intend to watch that. It works both ways.

We control the products we export. You have seen this yourself for many years, and it is still the case. We set high standards for the quality of our exports. We are always proud of the products we sell to any country.

Canadians also want quality products. From time to time there is pressure on us to be more flexible about quality, but we have no intention of giving in. We will maintain our standards. Our officers take this very seriously, and for me it definitely is a priority. It is also a priority for this government.

Senator Corbin: Mr. Minister, I want to thank you for your answers. Finally, I have just a simple question. I didn't really have time to examine the bill in detail, and I imagine you understand why, in the circumstances.

Mr. Blais: Of course.

Senator Corbin: Will the new legislation and regulations be able to do anything about incidents like the dumping of Newfoundland cucumbers on the Nova Scotia market? You know what happened. Greenhouse cucumbers sold in Nova Scotia at rock bottom prices almost ruined producers in that province and elsewhere in Canada. Does this bill apply to interprovincial trade?

• (1550)

Mr. Blais: Your question is interesting. I have not checked into it. My officials tell me that some shipments were refused because the products did not comply with the normal rules of trade that apply in our country regarding the quality of the product marketed, particularly in terms of size. That is why these products were banned.

Our department is following the situation very closely. Obviously, this whole issue of interprovincial transit of food and agricultural products is important. You will agree with me that often we have fairly high barriers between some provinces for various products. In some cases, it is justified; in others, not.

We are monitoring this very closely. It is the federal government's duty to ensure as free movement as possible of products between the provinces but the quality of the products being shipped must also be maintained, I think. The quality must meet Canadians' requirements and, I would say, basic standards. I do not have all the figures on arrivals, because I did not expect this question, but I know that a good number were refused because of the size of those famous cucumbers that everyone has heard about.

Senator Corbin: Mr. Chairman, excuse me. I thought that would be my last question, but I would like to raise another point.

Regarding national trade marks, as you call them in clause 15 of the bill, I have not had time to consider it in detail.

Will this bill or the regulations under it apply to some trade practices that I would call, perhaps, not quite honest? I will illustrate with a concrete example. For years, potato distributors in Quebec bought New Brunswick potatoes and bagged

them in Quebec for resale or distribution in Quebec, Ontario or elsewhere, and they still do that. They also buy a lot of potatoes from Prince Edward Island. These potatoes are shipped in bulk from Prince Edward Island or New Brunswick and cross provincial boundaries to reach St-Romuald in the Québec-Lévis area or some other place where the potatoes are put into bags bearing trade marks. I have seen this in regions around here and in Quebec. The origin of the product is usually written in very small type. This gives the consumer the impression of buying a Quebec potato, when it really comes from New Brunswick, which produces excellent potatoes, or Prince Edward Island, which is fairly close to New Brunswick in quality. The fact is that the consumer has the feeling that he is buying a Quebec potato, when that is not the case. It seems to me that this trade practice is, I will not say unfair, but on the borderline of the acceptable standards. Will you correct this kind of practice so that a potato grower called Michaud or Caron or Gillespie from the Grand-Sault region of New Brunswick can have credit for the product he has marketed?

Mr. Blais: I hope, honourable senators, that people who package their products almost under false pretenses do not do so because Quebec products sell better. That is surely not the reason. When someone buys a product, whatever it is, that person must know where it comes from. If this minimum standard is not respected, that is fraud, which is punishable under the Criminal Code. Between outright fraud and perfect honesty, there are surely people who, from what you tell me, take containers or packages marked in very small type or not clearly identified, so that people can really be mistaken and fail to distinguish between the marketer and the producer. That mistake may occur. I think that the rules are there to be respected. If people occasionally do not respect them, we must intervene from time to time. I do not have a recent example of where this has happened.

Perhaps the bulk arrivals that you were just talking about, honourable senators, have decreased somewhat for that reason. You will agree that the marketing is done differently by the three provinces you just spoke of. The company that you just mentioned also changed hands recently. The producers themselves do the marketing.

Senator Corbin: I did not name anyone.

Mr. Blais: No, I know. But I am very familiar with the whole issue of potatoes. I am aware that this can happen. We will take corrective action. I have been alerted to this problem and I will check into it. Certainly we will do everything in our power to enforce the law and make them understand that is no way to act.

The same thing can happen with many other products. Like it or not, we always run the risk of having this problem with any merchandise or foodstuff that can be sold in bulk. It is very easy to put a product in a bag and two potatoes are hard to distinguish as to their origin. We will monitor this closely. I thank you for your concern because it is really an important aspect of interprovincial trade.

Senator Corbin: Thank you, Mr. Minister. Thank you, Mr. Chairman.

• (1600)

[*English*]

Senator Hays: First, let me join with others in welcoming the minister on this, the occasion of his first visit to the Senate. I had the privilege of attending the World Food Conference with the minister and would like to compliment him here, as I did at that time, on how well he represented Canada on that occasion. He has served us well there, and I think he is serving us well with respect to the legislation before us.

I have a couple of questions that I would like to put. They are a little off topic in terms of the preceding questions, but the first concerns what the bill is intended to address. Clearly, the problems that arise out of the ruling of the Standing Joint Committee for the Scrutiny of Regulations are being addressed—that is, that there was no power to enact marketing legislation necessary to deal with problems that we had always intended to deal with. That clearly is covered. We are doing that and have had a good description from the government sponsor of the bill here in the Senate on what will happen there.

However, another objective of the bill is to meet obligations under Article 708 of the Free Trade Agreement, which are picked up in clauses 48 and 49 of Bill C-130. If that is in fact the case, it would be an example of amending existing legislation to deal with legislation that has not yet been passed.

In any event, my question is: Am I correct? Is this bill dealing with matters that are to be dealt with pursuant to Bill C-130, as well remedying the problems that arise out of the ruling of the Joint Committee for the Scrutiny of Regulations?

Mr. Blais: What clause of the bill are you referring to?

Senator Hays: Article 708 of the Free Trade Agreement deals with technical regulations and standards for agricultural food, beverages and certain related products. Part IV of Bill C-130 is headed "Related and Consequential Amendments to Implement the Agreement, *Canada Agricultural Products Standards Act*". An example in the legislation of something that would come within the ambit of that would be clauses 13 and 14 of Bill C-141, dealing with registered establishments and accredited laboratories. There may be other parts of it that deal with the trade agreement as well.

We are dealing with problems that arise out of the ruling of the Standing Joint Committee for the Scrutiny of Regulations, but it seems that we are also dealing with Bill C-130, a bill that has not been passed. I want to confirm that and, if that is the case, ask where else the bill deals with things outside of what it is that we have been talking about for the most part today.

[*Translation*]

Mr. Blais: Yes, there are other bills being studied at this time. One of them in fact may be sent to us within a few hours; whether or not it comes here depends on the decision of

members in the other place. I think there is no actual link between the two bills as such.

You referred to clauses 13 and 14 that deal with "Registered Establishments and Accredited Laboratories". It really is a coincidence, when you read both clauses. They are not really related to the broader legislation on free trade. It all depends on the situation, of course, and, as I usually say, we will cross that bridge when we get to it. Should the legislation come here in the future, you will have ample time to study it and I am convinced that you will study that other act with all of the energy that it deserves. But as we speak there is really no link between the two. The objective of this legislation, as you emphasized earlier, is rather to deal with what had been designated as being *ultra vires*. It was the government's responsibility to ensure that this legislation met with inspection needs. We took the opportunity to tie up certain loose ends and to ensure that this legislation complied in all of its provisions with the Charter of Rights and Freedoms, for all of the meat inspection sector. That is really the primary objective of the act. Should adjustments become necessary in the future because of other legislation, we will simply follow the usual process of legislative amendment. The intent is not to change anything in Bill C-141, as Bill C-130 will, I think, be submitted to you in the coming weeks.

[*English*]

Is it clause 41 in Bill C-130?

Senator Hays: Part IV of Bill C-130, clauses 48 and 49.

Mr. Blais: Yes, it is really a coincidence that those clauses are the same.

Senator Hays: So the problem would be fortuitously solved by this coincidence—that is, of complying with the requirements of Bill C-130 along with dealing with the other problems.

I have another question that I feel obliged to ask. It is extraordinary that we are dealing with Bill C-141 in such a short time frame. I was out of the chamber briefly, so if this question has been answered, please tell me and I will leave it. Could you describe for us the extent to which consultation with the industries affected took place prior to finalizing this legislation?

● (1610)

I ask that question because in the normal course of events the parliamentary process allows the industry ample opportunity for input and so on. I understand the reason for the urgency and I concur with others that we should give this bill third reading either today or tomorrow. However, I am anxious to satisfy myself that there has been adequate consultation. As I say, if you have answered that question, you can tell me so, but, if not, I would like to know what kind of consultation took place prior to finalization of Bill C-141.

Mr. Blais: If I remember correctly, I answered that question earlier. We have had full consultation with the provinces, with the processors, with the industry and with producers everywhere in Canada, and everyone agrees with this legislation. However, I cannot really tell you if there is any organization or person who is against it.

[Mr. Blais.]

Naturally, since this is a very technical bill, everyone has checked to see if it meets his goals, and it seems that everything is in order.

Senator Hays: The question that follows is: Is there a reason you can give us as to why it was made public only on June 30?

[*Translation*]

Mr. Blais: You mean stating publicly that the legislation was only tabled in the House of Commons on June 28 or 29? I am not sure as to the specific date.

You know as well as I do, of course, that we currently have a lot of legislation under way. As under any other government, we are faced with heavy schedules. This is an important piece of legislation—as they all are, depending on whose point of view.

We felt at that point, Mr. Wise and I, that we should introduce the bill in the other place for discussion. We all are aware this is a priority, but, as will often happen, we all are faced with very heavy legislative schedules.

It is difficult to make a value judgment on such a matter. I have no adequate answer to give you. For a government, as you know, there always comes a time when everything is important, depending on whom you are talking to.

[*English*]

Senator Hays: I have one other question that has to do with animal products and the extent to which you anticipate passing regulations dealing with the marketing of animal products under this particular bill.

[*Translation*]

Mr. Blais: On this matter, we are dealing strictly with cattle grading. I am not sure whether you were here at that stage, senator, but as I already mentioned, within a maximum 15 days after the bill is passed, the regulations should be in place within a very short time. That period should not extend over 10 to 14 days in our estimate. But this concerns cattle grading exclusively.

[*English*]

Senator Hays: So I take it that it is premature now to comment on the degree to which animal products will be regulated or dealt with in the regulations. Is that your answer?

[*Translation*]

Mr. Blais: As I also had an opportunity to mention previously, there will be no real changes, senator. This is rather technical. To a large extent we will be keeping the same approach as we had previously, as far as those various regulations are concerned. There will be no surprises.

We will simply update a few regulations, but essentially they will remain the same.

[*English*]

Senator Hays: I would ask for a general comment on how the matter of search and seizure is dealt with differently in this legislation than in the legislation it replaces.

[*Translation*]

Mr. Blais: Your question is interesting, senator. Indeed there have been some changes. We made sure that, in the matter of search and seizure in people's homes under this legislation, the Charter of Rights and Freedoms is complied with in every respect.

Some adjustments were required to ensure compliance with the Charter of Rights and Freedoms.

As I mentioned earlier, I think it is more technical. We are going to do whatever is necessary, as we have done in the past. Personally, I had requested it in my department. Obviously, no abuses have been reported. Specific directives have even been issued to prevent abuses.

I think that, as with any legislation, we must provide for the coercive resources necessary to implement this bill. There is no real change in this area except to make the legislation conform to the Charter of Rights and Freedoms.

[*English*]

Senator Hays: My last question relates to the matter of standardization and whether or not you envisage this legislation assisting in any way in addressing problems that we have within Canada which really are non-tariff barriers to interprovincial trade. By that I mean the kind of situation Senator Corbin was talking about with respect to cucumbers, the implication being that cucumbers are heavily subsidized in one province and are shipped into another province at a price that is artificially low, thus causing harm to marketers of that product in the province which imports them. Is there any aspect of this bill that would deal with those kinds of problems?

[*Translation*]

Mr. Blais: Senator, I understand your concerns about the tariff and non-tariff barriers which exist, I suppose, throughout the world and in our own country. We are aware of that. As you know, it is a constant concern of our government.

However, that has nothing to do with the existing product and quality standards which have to be met. I don't know if we can call this "quality". For example, I was talking earlier about cucumbers, which you also mentionned.

Actually, when cucumbers do not meet the standards, which was the case for the Newfoundland products sent to Nova Scotia, the incoming or in transit products are not accepted. And that is what we will continue to do.

The object of this bill is not really to lower or to raise the barriers between the provinces. We are however aware of this phenomenon and we are doing everything we can to settle the matter. I suppose you can appreciate the fact that it is not always easy for us to have the barriers lowered to the utmost so as to allow a freer distribution of the food and agricultural products in our country, in the best interests of producers from all provinces.

[*English*]

Senator Hays: Thank you, Mr. Chairman.

The Honourable Senator Barootes in the Chair:

The Chairman: Honourable senators, are there any other questions of the minister? If there are no other questions, honourable senators, is it your wish to proceed to discussion and approval of the bill, clause by clause?

Hon. Senators: Agreed.

• (1620)

The Chairman: Shall the title be postponed?

Hon. Senators: Agreed.

The Chairman: Shall clause 1, the short title, stand?

Hon. Senators: Agreed.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: We have from clause 3 to clause 42. Do you wish to examine them independently?

Senator Doody: Carry them in one block.

Senator Frith: I agree.

The Chairman: Then shall clauses 3 to 42, inclusive, carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall clause 1, the short title, carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Chairman: Mr. Minister and officials, on behalf of the Senate I wish to thank you very much for coming and helping us with the consideration of this bill in such a lucid and fair manner, so much so that even the present chairman could understand exactly what was being said.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Efstathios William Barootes: Honourable senators, the Committee of the Whole, to which was referred Bill C-141, to regulate the marketing of agricultural products in import, export and interprovincial trade and to provide for national standards and grades of agricultural products, for their inspection and grading, for the registration of establishments and for standards governing establishments, has examined the said bill and has directed me to report the same to the Senate without amendment.

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTIETH REPORT REFERRED BACK TO COMMITTEE

The Senate proceeded to consideration of the sixtieth report of the Standing Committee on Internal Economy, Budgets and Administration (printing requests: submission by the *Ottawa Citizen*) presented on July 5, 1988.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move the adoption of the report.

The Hon. the Speaker *pro tempore:* Honourable senators, is it your pleasure to adopt the motion?

Hon. Orville H. Phillips: Honourable senators, may I direct a couple of questions to the mover of the motion? The sixtieth report, which, incidentally, is being adopted before the fifty-seventh, the fifty-eighth and the fifty-ninth reports—

Senator Frith: I do not mind if we put this report after the others. It is only before the Senate now because of our procedure in calling the orders.

Senator Phillips: The sixtieth report refers to two separate items. The second item refers to the allegations made by the *Ottawa Citizen* against Senator Argue. Is this the final report? If so, what safeguards were put into effect to avoid a repetition of this nature?

Senator Frith: Honourable senators, this report deals only with the submission by the lawyers of the *Ottawa Citizen* to attend Senate committee hearings and their request that the *Ottawa Citizen* be represented by its counsel before the committee. It does not deal with anything more than that and therefore the honourable senator's second question does not require an answer.

Senator Phillips: Will further explanations on this matter from the Internal Economy Committee be presented to the Senate?

Senator Frith: Explanations about what?

Senator Phillips: About the allegations with regard to expenditures.

Senator Frith: I do not know.

Senator Phillips: My second question refers to the first part of the report concerning printing requests. At the previous meeting, the fifty-ninth meeting of the committee, the members rejected a request from Senator Hastings for printing. The sixtieth report, after a question of privilege by Senator Hastings, has reversed the decision taken at the fifty-ninth meeting. I believe the Senate is entitled to an explanation in this regard, and I would suggest to the honourable senator that the report be held in abeyance until Senator Hastings, who is absent from Ottawa on committee business, has a chance to explain to the Senate this matter concerning his request.

[The Hon. the Speaker.]

Senator Frith: Honourable senators, Senator Phillips exchanges the words "fifty-ninth meeting" and "fifty-ninth report". I do not think there is anything in the fifty-ninth report, which will be called later today, that deals with the matter concerning Senator Hastings. In fact, that report deals with the budget of the Energy and Natural Resources Committee. I am aware of no report dealing with a decision with regard to Senator Hastings' matter. Senator Hastings is not mentioned in the sixtieth report, although it is quite right that paragraph one of the sixtieth report is the result of a request by Senator Hastings; it deals with the general principle, not with Senator Hastings' application.

Senator Phillips: Is the honourable senator saying that the committee did not reverse itself?

Hon. H.A. Olson: That is right. It did not. It was a misinterpretation of what the vote was about.

Senator Frith: Honourable senators, what I am saying is what I said.

Senator Olson: That is right.

Senator Phillips: Honourable senators, in an effort to give Senator Hastings an opportunity to explain to the Senate his request for printing, I move the adjournment of the debate until he returns.

Senator Frith: Honourable senators, speaking to the motion to adjourn, it seems to me that it is based on an irrelevant consideration, because Senator Hastings is not mentioned in the sixtieth report in any way. It may be that Senator Hastings has something to say to the Senate and it may be that Senator Phillips has something to raise in reference to the matter concerning Senator Hastings, but there is nothing in the sixtieth report about Senator Hastings. So I think that this is a bad reason on which to adjourn the debate on this motion. Perhaps there is another reason, but the reason described does not seem to have anything to do with the report.

Hon. Daniel A. Lang: Has the honourable senator adjourned the debate?

Senator Frith: I am speaking to the motion to adjourn, but I am sure that we can suspend that matter if Senator Lang wishes to speak to the report itself.

Senator Lang: Honourable senators, I think it is unfair to ask me, or perhaps any other senator present, to approve a report which is really quite incomprehensible in its wording. I do not know what the words "honour system" in paragraph one mean. I do not know whether the honourable senator can define that phrase, but I cannot take it at face value as having some sort of validity. In the second paragraph, I do not know what the words "that the submission"—that is, the submission of the lawyers of the *Ottawa Citizen*—"does not need a verbal clarification" mean. Before I can consider acceding to this report I want to know what the report means. I have certainly had no clarification to date.

Senator Frith: Honourable senators, I think that is a perfectly good reason for adjourning the debate, especially if

Senator Lang or some other senator in the debate wishes to put on the record some questions for clarification. Perhaps it is a basis for referring the matter back to the committee. I think that is quite in order. That may be what Senator Phillips would also like to have occur.

• (1630)

I was simply saying that to base the adjournment of the debate on this motion by Senator Hastings, it seemed to me, was not a good reason for doing so, but to adjourn the debate in order to ask for further explanations or to have the committee reconsider the matter is, to me, a legitimate reason to adjourn the debate and I would not oppose such a motion

Hon. Eymard G. Corbin: I should like to ask Senator Frith what will change, if anything, if this report is not adopted. Will it be business as usual in the Senate or not?

Senator Frith: That is a little difficult to answer. I am sure that, if this report is not adopted, it will still be business as usual in the Senate chamber.

Senator Corbin: Or for senators.

Senator Frith: Yes. However, if there is any feeling, for example, by senators that the staff should or should not have the right to tell a senator when they will print in accordance with a request from a senator, that might cause a change. My reading of the first paragraph of the sixtieth report of the committee is that a senator is expected only to make the request and that the staff is to "... accede to the requests of all Senators made in the course of carrying out their senatorial duties." I do not think that paragraph is totally without effect. It may not be clear in its meaning, as Senator Lang says, but I think it will have an effect.

Hon. Hartland de M. Molson: I also should like to express some lack of understanding of this report. What bothers me, quite apart from not understanding its meaning, is that I do not feel that this report treats one of the members of this house properly or fairly. He has apparently been accused in the press—although I did not read it—of certain improprieties, and I do not think that the kind of defence shown in this report does anything for Senator Argue. At the very least, he is entitled to the defence of this house to the effect that he has done nothing improper. I think he should be well defended. This report does nothing: it does not defend him and it does not accuse him. It simply comes out with these rather difficult words that make it difficult to understand what it means. It uses phrases like "the honour system", in the first paragraph, and, in the second paragraph, it states, "... does not need a verbal clarification." I may be terribly stupid, but I simply do not understand what that means.

Senator Frith: That is perhaps because Senator Molson and other senators seem to look at the sixtieth report as a report of the Standing Committee on Internal Economy, Budgets and Administration to deal with or settle the allegations made against Senator Argue, and it is not intended to do that.

The first paragraph is a general response to a request by Senator Hastings for printing. It is not in response to anything to do with Senator Argue.

The second paragraph is only in response to a specific request that did deal with Senator Argue. It was a specific request from the *Citizen*, asking that the proceedings of the Internal Economy Committee be held in public and, if the committee did not wish to hold them in public, the *Citizen* would like to appear before the committee to explain why they ought to be held in public. They were told to make a written submission to that effect; they did so, and the committee decided that it did not have to hear from them because it took their written submission into account.

Honourable senators, I am not resisting the adjournment of the debate. It seems to me the problem with the sixtieth report is that it followed directly in our proceedings the statement made by Senator Argue. Senators, quite understandably, thought that "B" followed "A" and that "B" was meant to deal with "A". It was not.

Senator Molson: Is this matter to be raised in the Internal Economy Committee or any other committee, or is the matter now dead? I think that situation is not very clear to some of us here or to the public. It does not seem to me that we are dealing with the matter raised in the press. Surely we have to deal with it in some sensible way and not leave it in limbo.

Senator Frith: I agree, but that is not what the sixtieth report deals with.

Hon. Charles McElman: Honourable senators, the first paragraph of the sixtieth report, with respect to printing requests and the use of other Senate facilities, states that:

> ... all Senators are on the honour system and staff will accede to the requests of all Senators made in the course of carrying out their senatorial duties.

I would ask the deputy chairman if there are any guidelines establishing the honour system that will be observed. For example, in the other place I understand that they have to follow rather elaborate guidelines for mailings and things of that nature and that the honour system applies there as well, but only, presumably, within the bounds of the guidelines that are established.

My question, again, is: Has the committee, or the Senate, established any guidelines within which the honour system will be observed, or is it carte blanche in that each senator will decide what he can and will do in accordance with his own conscience and observance of his honour?

Senator Frith: In response to the first question, which is: "Are there any guidelines within which the honour system is to operate?", I must say that there are no guidelines that I know of. However, as a member of the committee, I have heard of such guidelines, but, at the same time, a question was raised as to whether they had ever been written down.

As to whether it is carte blanche, I would have to try to interpret paragraph 1. I was not chairman of the committee when this report was written. I am reporting as deputy chairman and can only interpret what I recall as being the meaning

of paragraph 1, which was that the senator should be accountable. What I am doing now is giving my impression of what the discussion was in committee. It was that any request should be made by the senator; the senator should take responsibility for that request; and the staff should accede to the request and not be in the position of trying to police the senator.

My own opinion is, if that is so, then all the information on the expenses attendant upon such a request should be available to the public and the senator should have the responsibility to account for those expenses. However, that aspect is an addition to my opinion, because the paragraph itself is certainly open to the interpretation of Senator McElman's that it is carte blanche. If it is carte blanche—and, remember, I am reporting the decision of the committee—and if senators have a right to ask for the printing of material and to make other requests in the course of carrying out their senatorial duties as they see them, then, in my opinion, since these are public funds, they also have the duty to defend the expenditures that are attendant upon them and not to leave it to the Internal Economy Committee to do that. However, that part is my opinion.

• (1640)

Senator McElman: Honourable senators, I am not in any way trying to put Senator Frith on the spot. Unfortunately, I was unable to attend the meeting last Thursday. I do not often miss those committee meetings, and it is because I missed it that I should like to put the question to the deputy chairman. If the purpose was to remove from staff people, from senior bureaucrats, the responsibility for making decisions in these matters, I suggest that this paragraph 1 does not achieve that purpose altogether. It says:

> . . . staff will accede to the requests of all Senators made in the course of carrying out their senatorial duties.

Is it not your impression that there could be cases in which the bureaucrats, the staff people, would reach a conclusion that things were being requested which did not fall within the scope of senatorial duties, but that they would still be obligated, for example, to report to our senior officer of the Senate, the Clerk, who in turn would be obligated to report to the Internal Economy Committee in any such instance?

Senator Frith: Yes, honourable senators, I agree with that. That is an additional reason why the Senate may wish to continue asking for clarification of these points and refer them back to the committee for clarification.

Senator Molson: I hate to repeat myself, but I am not clear on what the Deputy Leader of the Opposition has said with regard to this matter or on where this leaves our colleague. Does it leave it just the way it was? Unanswered? Nothing further said? Is that the end of the matter or is there anything else that is being done to help clear his name?

Senator Frith: Honourable senators, there was nothing specifically referred by the Senate to the Internal Economy Committee, as I recall it. The question came up because it was raised in the press. I believe the position taken by the chairman of the Internal Economy Committee, the Speaker, in response to questions by the press, was that he understood that the issue raised was the recently established guidelines for senators on research assistants, and that is how it got to the Internal Economy Committee. When it came up in the Internal Economy Committee, I had the same questions in my mind as Senator Molson had, and I raised the point by saying, "What is it that is before the committee? Is someone being accused of something or not?" We then reviewed and discussed the guidelines. Then the question as it emerges in the sixtieth report got mixed up. Therefore, in the sixtieth report all we dealt with were totally different matters, a request by Senator Hastings and the request by the *Ottawa Citizen*.

If Senator Molson or any other senator were asking for my opinion as to how to bring this out of limbo, I would say that because of what happened yesterday, when Senator Argue rose on a point of privilege and responded to allegations made in the press, it seems to me that the Senate is now in a position to have that matter referred to the Committee on Internal Economy, Budgets and Administration if it wishes to do so. Or it can pass a motion stating that it accepts the explanation, or whatever, and the Senate can now consider that the matter is before it and then refer it back to the Internal Economy Committee.

• (1650)

Where the matter stands in the Internal Economy Committee is obscure, I agree, because the matter was never referred to the Internal Economy Committee by the Senate. The matter only arose as a result of the response by the chairman to the question on the research guidelines.

Senator Molson: I cannot help but feel that we are perhaps doing a disservice to the Senate and to Senator Argue by letting the matter drop. I am not sure what procedure would be suitable or advantageous, but I think for the public to know this much and then have the thing drop dead is really not in the best interests of the Senate or of Senator Argue.

Senator Frith: Honourable senators, I think many senators share Senator Molson's view, and perhaps someone can come up with another suggestion. I came up with this suggestion on the spot. As Senator Molson knows very well as a former and long-serving chairman of the Rules Committee, the Committee on Privileges of the Senate is a committee of the whole Senate. So, if Senator Argue feels that his point of privilege should be responded to by the Senate, he might request that it do so; but I do not think it is at all out of order for another senator to say that he or she wants to consider the matter in the Senate as a whole, or that that senator would like the matter referred to the Internal Economy Committee for a report. I think a motion like that would be quite in order; but I am quite open to other suggestions.

Senator McElman: Honourable senators, there is another aspect to this. Rather than wait for a reference from the Senate, this is one of the two committees of the Senate which can, of their own, institute a study or an investigation.

Now that Senator Argue has brought this matter—quite aside from what the newspaper said—into the public purview,

it seems to me it is more than appropriate that the Internal Economy Committee look at the unanswered questions with respect to this matter—and there are unanswered questions, some of which, in my view, demand a response and demand an inquiry.

I remind honourable senators that each and every senator is entitled to attend meetings of the Internal Economy Committee, and those who are interested should attend and put in that committee any questions they may have on this matter. They can do everything other than present a motion or vote. They can otherwise participate fully. I, for one, hope that those senators who have questions in their minds will do that.

I can say to Senator Molson that, so far as I am concerned, this report does not close the issue in any sense; it simply deals with two separate matters that were before the committee and gives the conclusions reached by the committee on those two separate matters. The issues with respect to Senator Argue, in my view, have not been concluded in the committee, and it is my intention to see that they are not left as having been concluded in the committee, because I have questions I wish to obtain answers to. So I hope that the committee meeting scheduled for tomorrow morning will continue to make inquiries into this whole matter.

Senator Frith: Honourable senators, Senator McElman is, of course, quite right when he says that this is one of the two committees that can consider matters on their own motions, and that is how the matter got before the Internal Economy Committee. The matter came up before that committee in precisely that way.

As a member of the Internal Economy Committee, I can say it would be helpful if we had some understanding from the Senate on the precision it requires in defining any matter. We do not even need a motion, because, as Senator McElman has stated, the committee can take into account what is said in the Senate in order to deal with it. Senator Argue's question of privilege raised in the Senate yesterday can be considered by the Internal Economy Committee. Then we have some document or something that can be used as a basis for the committee's consideration. Perhaps it would be better not to be any more precise than that.

If I understand Senator McElman's feelings on the subject, as echoed by others, he means to bring this matter up at the committee meeting scheduled for tomorrow morning. The committee can then consider the matter on its own motion and take into account what Senator Argue raised yesterday and everything that has been said today.

Senator McElman: If it is not already on the agenda for tomorrow morning's meeting, I will ask that it be placed on the agenda.

Senator Frith: Even if it is on the agenda for tomorrow's meeting, we should be sure we take into account, in my view, the comments made by Senator Argue yesterday and the interventions of today.

The Hon. the Speaker *pro tempore:* There is a motion to adjourn the debate. It has been moved by the Honourable Senator Phillips, seconded by the Honourable Senator Doody, that further debate on the motion be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Frith: I think Senator Phillips and I understand each other now—that is, that the reason for adjourning the debate is not to await anything from Senator Hastings but just to clarify what the committee is trying to say. Is that right?

Senator Phillips: The motion will give the committee an opportunity to reconsider the sixtieth report.

Senator Frith: I would support a reference of this report back to the committee now rather than adjourning the debate, unless someone wants to add more to it. Can we change the motion?

Senator Phillips: I am agreeable.

Senator Frith: I think we will get at it more quickly if we do that.

The Hon. the Speaker *pro tempore:* Is Senator Phillips withdrawing his motion and putting a second motion that the matter be referred back to the committee?

Senator Phillips: Yes. I move:

> That the report be not now adopted but that it be sent back to the Standing Committee on Internal Economy, Budgets and Administration for further consideration.

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

Hon. Senators: Agreed.

Motion agreed to and report referred back to committee.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIFTY-FIFTH AND FIFTY-SEVENTH TO FIFTY-NINTH REPORTS OF COMMITTEE ADOPTED

On Orders Nos. 11, 12, 13 and 14:

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, may I please speak to Orders Nos. 11, 12, 13 and 14 together? Those are the fifty-fifth, fifty-seventh, fifty-eighth and fifty-ninth reports of the Internal Economy Committee. To put it on the record, the fifty-sixth report was adopted on June 21, 1988, in case senators are wondering what happened to it. If I can deal with them en bloc, they are—

The Hon. the Speaker *pro tempore:* I will put the motion first.

Senator Frith: I was going to have you put an even wider motion, Mr. Speaker.

The fifty-fifth report deals with the Social Affairs, Science and Technology Committee study on childhood poverty; the fifty-seventh report concerns the Legal and Constitutional

Affairs Committee's routine legislative matters and other matters referred to it; the fifty-eighth report has to do with the Energy and Natural Resources Committee and its general legislative program or such legislation as may be referred to it, and other matters; and the fifty-ninth report concerns the Energy Committee's examination of the production and use of natural gas.

I ask for leave to deal with those reports en bloc.

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

Hon. Senators: Agreed.

The Senate proceeded to consideration of the fifty-fifth and the fifty-seventh to fifty-ninth reports of the Standing Committee on Internal Economy, Budgets and Administration presented on Tuesday, June 28, 1988, approving supplementary budgets of the following committees:

55th Social Affairs, Science and Technology;

57th Legal and Constitutional Affairs;

58th Energy and Natural Resources;

59th Energy and Natural Resources.

Senator Frith: Honourable senators, with leave, I move that these reports be now adopted.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

Motion agreed to and reports adopted.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that all remaining orders, inquiries and motions stand.

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, July 7, 1988

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

Prayers.

[*Translation*]

OFFICIAL LANGUAGES BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-72, respecting the status and use of the official languages of Canada.

Bill read first time.

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

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

[*English*]

RAILWAY SAFETY BILL

REPORT OF COMMITTEE PRESENTED

Hon. Charles Turner, Acting Chairman of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, July 7, 1988

The Standing Senate Committee on Transport and Communications has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred Bill C-105, An Act to ensure the safe operation of railways and to amend certain other Acts in consequence thereof, has, in obedience to the Order of Reference of Wednesday, June 1st, 1988, examined the said Bill and has agreed to report the same with the following amendment:

Page 33, clause 35:

(a) Strike out lines 20 to 26 and substitute the following:

"35.(1) A person who holds a position in a railway company that is declared by regulations made under paragraph 18(1)(*b*) to be a position critical to safe railway operations (referred to in this section as a "designated position") shall undergo a company-sponsored medical examination (including audiometric and optometric examination) at least every twelve months.

(2) Where a physician or an optometrist believes, on reasonable grounds, that a patient is a person described in subsection (1), the"

(b) Renumber subclauses (2) to (5), and any cross-references to subclauses (1) to (5), accordingly.

Respectfully submitted,

CHARLES TURNER
Acting Chairman

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

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

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

REPORT OF COMMITTEE ADOPTED

Hon. C. William Doody (Deputy Leader of the Government), for Hon. William M. Kelly, Deputy Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, July 7, 1988

The Standing Senate Committee on National Finance has the honour to present its

TWENTY-FIFTH REPORT

Your Committee, to which was referred on May 31, 1988 Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, and to which instructions were given by an order of the Senate on June 7, 1988 to divide Bill C-103 into two bills, has, in obedience to both orders of reference examined the said bill and now reports that it has divided the bill into two bills, Bill C-103 (Part I), An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and to make consequential and related amendments to other Acts, and Bill C-103 (Part II), An Act to establish the Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, both of which are set out in Appendices A and B respectively to this report.

Your Committee has agreed to report Bill C-103 (Part I), without amendment, and further reports that it is continuing its examination of Bill C-103 (Part II).

Respectfully submitted,

WILLIAM M. KELLY
Deputy Chairman

For text of appendices to report, see Appendix "A", p. 3894.

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

Senator Doody: With leave, now.

If possible, I would like the Senate to deal as quickly as possible with this report, and then send it to the House of Commons so that they may deal with it.

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

Hon. Senators: Agreed.

The Hon. the Speaker: With leave of the Senate and notwithstanding rule 45 (1)(*f*), it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Robertson, that this report be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Doody: Honourable senators, if I may, I want to bring to the attention of the Senate that this matter should be dealt with promptly—and I appreciate the fact that it is being dealt with promptly—so that members of the House of Commons will have an opportunity to deal with what, in effect, is an unprecedented situation.

You will recall that when Senator Graham presented his motion to split the bill members on this side of the Senate protested and voted against it. Subsequently, His Honour ruled that the motion to split the bill was out of order. The majority of the Senate thought otherwise and overruled the Speaker's decision. It is now up to the members of the House of Commons to decide whether or not this is, indeed, a constitutional challenge to the House of Commons or whether the splitting procedure is, indeed, acceptable.

I appreciate the opportunity to get this report out of the Senate and down to the House of Commons so promptly. We will now let them look after it.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, the Honourable Deputy Leader of the Government has been very brief in his comments with respect to the report of the Standing Senate Committee on National Finance.

In accordance with the instruction of the Senate itself, the committee proceeded to divide Bill C-103 into two bills: Bill C-103 (Part I) and Bill C-103 (Part II). The committee approved of the way the division took place.

Senator Flynn: They had no choice!

[Senator Doody.]

Senator MacEachen: The committee subsequently gave consideration to Bill C-103 (Part I).

It ought to be stated that that bill was reported unanimously out of committee to the Senate, and the Deputy Leader of the Government has now moved that the Senate concur in the report of the committee. I hope that motion will be carried; that, subsequently, third reading of the bill will be carried in the Senate; and that the House of Commons will be notified as quickly as possible that the ACOA bill, Bill C-103 (Part I), has been passed by the Senate. Indeed, if the House of Commons acts to accept the conclusions of the Senate, then ACOA will quickly have a firm legislative base.

It was the intention originally, in securing the dividing of the bill, to facilitate as quickly as possible the enactment of the Atlantic Canada Opportunities Agency. It was our conclusion that that would be achieved more quickly by dealing with the two subject matters separately than by dealing with them together. It is evident that more time will be required to consider the Enterprise Cape Breton Corporation than was required for the Atlantic Canada Opportunities Agency, because the clarity of support that existed for the first entity is not apparent for the second.

• (1410)

Senator Flynn: To you!

Senator MacEachen: I believe that the fact that we have been able to report the bill and have it dealt with justifies the original decision.

Senator Flynn: Which one—second reading or the instruction to the committee?

Senator MacEachen: It is not my intention to revive the procedural question that was settled by the Senate when the motion to divide the bill was put. The House of Commons, of course, is master of its own destiny and of its own business. If it finds that procedural questions exist, which I do not find is the case, then, of course, it will delay the immediate enactment of the Atlantic Canada Opportunities Agency. It would be our desire to have that agency firmly established as quickly as possible.

Hon. Brenda M. Robertson: Honourable senators, as a member of that committee, I should just like to remind honourable senators that those of us who worked in that committee, and who were distressed at the dividing of the bill in this chamber, felt the same way in committee. However, as the honourable senator has noted, we were dealing with instructions from the house to divide the bill and we were advised that there really was no way we could object at that point; we were following the orders of the Senate.

Senator Flynn: Well said!

Senator Robertson: However, the government members on that committee feel no less strongly than they did when the decision to divide that bill was taken in this house. Certainly, I am somewhat amused —although it is nothing to be amused about, I suppose—when Senator MacEachen suggests that, should the House of Commons not approve of the division of

this bill, they will indeed be delaying the enactment of ACOA. That is a farce; it really is a farce. Simply because certain members of this chamber want to divide this bill and frustrate the will of the government, I would be very much surprised that they could accept the blame for holding up the bill after the division here, a procedure which I understand is unprecedented in this chamber. I wanted that on the record. Thank you very much.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I will repeat the motion:

It is moved by the Honourable Senator Doody, seconded by the Honourable Senator Robertson, that this report be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Report adopted.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have here a little procedural nit.

Senator Doody: Let's pick it!

Senator Frith: Rule 78(4) says:

> When a committee reports a bill without amendment,

—which is what has happened here—

> 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.

Obviously, we will give leave that it be given third reading today.

Senator Doody: Of course.

Senator Flynn: Under the circumstances.

Senator Doody: I guess the moot point, if there is one, is whether or not that bill is amended or whether it is the same bill that went up to the committee a short while ago. There are those of us cynical enough to suggest that it is somewhat different.

Senator Frith: Yes; you are noted for your cynicism.

ATLANTIC CANADA OPPORTUNITIES AGENCY BILL—BILL C-103 (PART I)

THIRD READING

The Hon. the Speaker: When shall this bill, Part I, be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): With leave, now.

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Robertson, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

The Hon. the Speaker: Carried.

Hon. Allan J. MacEachen (Leader of the Opposition): Unanimously—despite Senator Robertson's indignation.

[*Translation*]

A Clerk at the Table: Bill C-103 (Part I), an Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts.

Third reading of this bill.

The Hon. the Speaker: Honourable Senators, Bill C-103 (Part I) a House of Commons bill entitled an Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts.

[*English*]

It is ordered:

> That a Message be sent to the House of Commons to acquaint that House that the Senate has divided the bill into two bills, Bill C-103 (Part I), An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and to make consequential and related amendments to other Acts, and Bill C-103 (Part II), An Act to establish the Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, both of which are attached to this Message as Appendices A and B respectively; and
>
> To further acquaint that House that: (a) the Senate desires the concurrence of the House of Commons in the division of Bill C-103; (b) the Senate has passed Bill C-103 (Part I), without amendment; and, (c) the Senate is further considering Bill C-103 (Part II).

Senator MacEachen: That is also unanimous!

Hon. Jacques Flynn: No, it is not. I think I should put on the record that the message has been prepared by the Chair and I do not think we necessarily concur unanimously in it.

Senator MacEachen: When the Speaker says, "It is ordered", is he not speaking on behalf of the Senate? When he says that the Senate desires the concurrence of the House of Commons, is the Speaker not speaking on behalf of the Senate? That is quite an extraordinary doctrine proposed by the Honourable Senator Flynn.

Honourable senators, this is in standard form. When the Speaker elucidates this order, he cannot speak for himself; he is speaking for the Senate.

Senator Flynn: In that case, I will move that the part of the message referring to the request for concurrence be deleted. We should inform the House of Commons that that is what we have done, but that we do not necessarily ask for concurrence.

Hon. Royce Frith (Deputy Leader of the Opposition): Why?

Senator Flynn: Because we are not all in concurrence with that request. We simply passed that part of the bill. We are not asking for concurrence in everything that was contained in the message.

Senator Frith: Honourable senators, it seems to me that the polite thing to do is to ask for the concurrence of the House of Commons; but, if the government wishes it otherwise, that is all right.

Senator MacEachen: Take it out!

Senator Flynn: Sure!

Senator Frith: I thought we were being polite.

Senator Flynn: No, we do not ask for concurrence—that is not a question of politeness.

Senator Frith: I think we should ask for concurrence, but, if the government does not want us to, that is fine.

Senator Flynn: Personally, I do not want to.

Senator MacEachen: If it is the desire of Senator Doody, on behalf of the government, to alter the message to delete what are, in the mind of Senator Flynn, the offending words, "that the Senate desires the concurrence of the House of Commons in the division of Bill C-103", then the message would read: "That the Clerk further acquaint the House that the Senate has passed Bill C-103 (Part I) without amendment, and that the Senate is further considering Bill C-103 (Part II)."

Senator Flynn: Agreed.

● (1420)

Senator MacEachen: Honourable senators, I must say that when this particular formulation came to my attention I did not find it necessary to ask the House of Commons to concur in the division that was undertaken in the Senate. Some have argued that it might be polite or more courteous to render it in that way because the bill originated there, but what is important is not whether they concur in the division of the bill but whether, indeed, they will accept Bill C-103 (Part I) without amendment, which establishes the Atlantic Canada Opportunities Agency. Certainly, I would agree with Senator Flynn to remove, if he wishes, that portion of the message so that the House will not be explicitly asked to bless the division of the bill. Their decision will be based solely upon whether they want to approve the ACOA portion of the bill on its own merits.

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

Hon. Senators: Agreed.

BUSINESS OF THE SENATE

ADJOURNMENT

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

[Senator Flynn.]

That when the Senate adjourns today, it do stand adjourned until Tuesday next, July 12, 1988, at 2 o'clock in the afternoon.

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

Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, is the Deputy Leader of the Government in a position to tell us what business the government will have for us next week?

Senator Doody: The Official Languages Bill is here, which will have to be dealt with expeditiously. I suspect that the House of Commons may have an opportunity to deal with the message that we are sending down, and it may very well be back by Tuesday. There are also various other bills before the House of Commons which I hope to see next week.

Hon. Allan J. MacEachen (Leader of the Opposition): Is the Deputy Leader of the Government telling us in advance that the government has already decided not to pass Bill C-103 (Part I)? Has that decision been made by the government? If the message were accepted, then the bill would go forward for Royal Assent, and I am asking the Deputy Leader of the Government whether he is now telling us that there will be a further delay in the enactment of the ACOA legislation.

Senator Doody: I certainly did not want to give that impression. I said that the House of Commons will have had an opportunity to deal with it. I did not mean that they would accept it or reject it. I am not in a position to say so.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is not with us today. I will be glad to take as notice any questions that honourable senators might wish to pose.

DELAYED ANSWER TO ORAL QUESTION

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—SUBMISSION OF PROPOSALS—NAMES OF COMPANIES OR CONSORTIA—FINANCIAL ARRANGEMENTS—NATURE OF PROPOSALS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have one delayed answer. It is a rather lengthy one in response to a question asked in the Senate on June 15 last, by the Honourable John B. Stewart, regarding Prince Edward Island—Proposed Fixed Crossing to Mainland—Submission of Proposals—Names of Companies

or Consortia—Financial Arrangements—Nature of Proposals. If Senator Stewart will agree, I will ask that it be printed as part of today's proceedings.

Hon. John B. Stewart: Agreed.

(*The answer follows:*)

Last June, Public Works Canada called on Canadian firms to submit Expressions of Interest. Twelve responses were received and seven were pre-qualified and invited to submit proposals.

Dillingham Construction Limited, North Vancouver withdrew from the competition prior to submission of proposals. Six consortia responded.

The contact names and telephone numbers for the six consortia are attached.

Bridge solutions were submitted by:

Abegweit Crossing Ltd. - high level bridge;

The Borden Bridge Co. Ltd. - combination high level/ segmental concrete and cable-stayed bridge;

P.E.I. Bridge Ltd. - high level bridge with a cable-stayed section over the navigation channel; and

Strait Crossing Inc. - concrete bridge.

P.E.I. Crossing Venturers submitted two solutions; a cable-stayed bridge with a steel and concrete deck, and a vehicular tunnel with two unidirectional parallel tunnels.

Northumberland Bridge Corporation also submitted two solutions; a steel truss bridge, and a cable-stayed structure.

None of the proposals have causeway sections. The Generic Initial Environmental Evaluation (GIEE) which was completed March 1988 and distributed to the public concluded that a bridge given proper design would have no significant negative impacts on the fishery or the environment.

Concept drawings of each solution and corporate profiles and the Executive Summary of the GIEE is attached to this answer and is tabled for Senator Stewart's information.

The evaluation of proposals is currently underway by a joint federal and provincial government review committee aided by private sector specialists. The results of this confidental review will form part of a submission to Ministers.

The recommended development approach is as follows:

The proposed approach is for the private sector to finance, construct, own, operate and maintain a fixed crossing under a 35-year contribution agreement with the Government of Canada. At the end of the term, the facility would revert to the government in a fully maintained condition with 65 years of operating life still to run.

The developer would assume all construction, operation and maintenance risks and in return would receive an annual Consumer Price Index (CPI) linked subsidy. The subsidy would be payable annually in advance, from a date certain to be agreed upon for the whole term of 35 years (35 payments) whether or not the facility is completed or operating. The subsidy would be fully indexed from the time of acceptance of the offer. The developer would provide guarantees and insurance sufficient to reimburse the government for the subsidy in the event that the facility was not completed by the date certain or rendered inoperable from any cause. Should the facility be rendered inoperable due to a catastrophic event, the government would accept responsibility for meeting the constitutional obligation of "continuous communication" for the period of time that the facility is inoperable.

The developer would charge regulated tolls. The toll rates would be adjusted annually for 75 per cent of the CPI. Toll revenues would be "as collected" with an index linked "floor" equivalent to the toll revenue yield of the last year of the ferry operation fully indexed to the CPI. Should actual toll revenue in a particular year fall below the "floor", the developer could, by simple application to the government, be permitted to set toll rates at such a level above 75 per cent as would permit the developer to recoup the particular year's short fall in the succeeding year.

PROPONENTS - MAILING LIST

Mr. John Bahen
Northumberland Bridge Corporation
201-1183 Finch Avenue West
DOWNSVIEW, Ontario
Tel: (416) 665-8650
Telex: 06218412
Facs: (416) 665-8654

Mr. Sven Ericson
P.E.I. Bridge Ltd.
10 Price Street
Suite 200
TORONTO, Ontario
M4W 1Z4
Tel: (416) 923-2779
Facs: (416) 923-1664

Mr. Armand Couture
P.E.I. Crossing Ventures
1100 Dorchester Boulevard West
MONTREAL, Quebec
H3B 4P3
Tel: (514) 876-4455
Telex: 055-61250
Facs: (514) 876-9273

Mr. H. Tucker
Dillingham Construction Ltd.
20 Brooksbank Avenue
NORTH VANCOUVER, B.C.
V7J 2B8
Tel: (604) 986-5911
Telex: 04-352590
Facs: (604) 980-5875

Mr. J. Shannon
Abegweit Crossing Ltd.
Paint Street
Light Industrial Park
PORT HAWKESBURY, N.S.
B0E 2V0
Tel: (902) 625-1899
(No telex or Facs)
MAILING ADDRESS FOR ABOVE
P.O. Box 790
PORT HAWKESBURY, N.S.
B0E 2V0

Mr. R.A. Robertson
The Borden Bridge Company Ltd.
Suite 500,
Barrington Tower
Scotia Square
HALIFAX, N.S.
B3J 2A8
Tel: (902) 429-8110
Telex: 019-22770
Facs: (902) 425-8295

Mr. Paul Giannelia
Strait Crossing Inc.
1177-11th Avenue S.W.
CALGARY, Alberta
T2R 0G5
Tel: (403) 245-8555
Telex: 03-821-848
Facs: (403) 244-4499

CANADA AGRICULTURAL PRODUCTS BILL

THIRD READING

Hon. Brenda M. Robertson moved the third reading of Bill C-141, to regulate the marketing of agricultural products in import, export and interprovincial trade and to provide for national standards and grades of agricultural products, for their inspection and grading, for the registration of establishments and for standards governing establishments.

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:

RIDEAU HALL

7 July 1988

Sir,

I have the honour to inform you that the Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 7th day of July, 1988, at 3.30 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

NATIONAL HOUSING ACT
CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—SECOND READING

Hon. Eileen Rossiter moved the second reading of Bill C-111, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to repeal certain enactments in consequence thereof.

She said: Honourable senators, it is my pleasure to outline the amendments proposed to the National Housing Act and the Canada Mortgage and Housing Corporation Act.

Bill C-111 contains provisions which support the government's ongoing commitment to help house Canadians. The amendments focus on mortgage loan insurance and mortgage-backed securities, two government programs designed to encourage a continuing flow of investment funds for housing.

Other amendments in the bill are designed to ensure that the mortgage insurance fund operates effectively on a business-like basis in order that its enterprise nature be preserved. Incidental amendments are included to clarify wording and to repeal obsolete sections.

These amendments comprise part of an ongoing review by this government to ensure that, under federal housing policy, all Canadians have decent, adequate and affordable shelter.

A consultation paper on social housing policy was distributed to more than 8,000 Canadians in January 1985. Every major housing association responded. Intensive follow-up meetings were held with social housing and interest groups, industry and municipal associations, mortgage-lending institutions and organizations representing the poor, the elderly, the disabled and aboriginal peoples.

The results of that process, honourable senators, were new directions in social housing policy. Government funds are now being directed to those in greatest need and we are serving more truly disadvantaged Canadians than ever before. Through federal-provincial agreements and improved cost-sharing arrangements, more low-income housing is being provided, and with less bureaucratic red tape.

● (1430)

We now have, in partnership with the provinces, in excess of half a million social housing units in this country. Over time, through rehabilitation programs, we have helped save about 40,000 homes from deterioration and abandonment.

Indeed, since identifying national housing policy as an area of concern in 1984, this government has undertaken an examination of various aspects of housing policy. The social housing and subsequent mortgage insurance reviews were part of this, and we are now proceeding with a review of renovation policies and housing options for older Canadians and for those living in rural areas.

This consultation on policy matters has already proved useful in determining ways in which to better allocate the resources we have and in identifying those areas of housing policy that require the greatest attention. The changes announced last year resulted in lower mortgage premiums and fees—a boon to both homebuilders and purchasers. New provisions allowed for mortgage insurance for second mortgages, renovation, upgrading and improving the quality of the housing stock in Canada.

For the first time Canadians can finance this work at first mortgage rates rather than paying the premium normally associated with second mortgage rates. Other borrowers may use insured second mortgages to facilitate the assumption of low-interest-rate first mortgages. This has the effect of reducing overall financing costs when purchasing an existing home.

These were important changes for Canadians purchasing new and existing houses and helped ensure that all Canadians had access to mortgage financing on an equitable basis, regardless of where they lived. Equal access is fundamental to public mortgage insurance.

At that time the government also announced its intention to introduce legislation to provide even greater access to mortgage insurance: mortgage insurance for moveable homes.

For young couples, families of modest income, individuals such as young service people who, because of their jobs, must move frequently, a mobile home is often a sensible, affordable alternative to conventional stick-built housing.

In many respects, today's modern moveable homes are like wartime housing. They offer an affordable option to renting, help young families build a little equity—a nest egg—and give them a stepping stone to larger accommodation if their needs increase.

Retired people, often with families that have grown up and moved away, no longer need either the space or expense of a large home. Manufactured housing could prove to be an affordable option for many seniors, as it is elsewhere on this continent.

The Canadian Manufactured Housing Institute and La Société Québécoise des Manufacturiers D'Habitation have sought changes to the National Housing Act to make moveable homes equal to conventionally built houses for mortgage loan purposes. The government responded by introducing chattel mortgage insurance to improve the availability of this less expensive form of housing.

The benefits of extending this program are numerous, particularly for consumers. Because mortgage loan insurance removes the risk of default from the lender, a bank or trust company, the lender can offer a reduced interest rate on the financing loan.

For the homebuyer, even with the necessary premium, he is likely to receive substantial savings in interest payments. Other advantages will be improved borrowing terms and conditions, such as term, amount and amortization periods. This will put the buyer on the same basis as other Canadians who want new homes.

This insurance will be available throughout the country. Equal access is fundamental to public mortgage insurance.

There are other benefits as well. In response to a five-year experimental program of mortgage insurance for new moveable homes, the industry has committed itself to enhancing its warranty programs. As a result, consumers will have the added assurance of a quality built home.

The indirect benefits will be equally important. Mortgage lenders will have the opportunity of targeting a new market.

Because the construction of mobile homes need not be at the home site, work does not stop when winter sets in, as is the case with traditional residential construction in some parts of Canada. Consequently, the seasonal nature of home construction does not apply to manufactured housing. Thus, it provides year-round employment—certainly a boon to the local community.

These new features of mortgage loan insurance will improve access to homeownership to many more Canadians, without involving any direct government expenditures. As we expand

the range of affordable homes, scarce government resources can be directed to those whose needs are greatest.

The second significant amendment is in keeping with the traditional role of government support for housing. It, too, is a direct result of consultations with financial institutions and the housing industry and is a natural extension of the many consumer-driven changes we have seen in mortgage financing over the past decade.

Last year the government introduced a new investment instrument, designed to further encourage a steady flow of mortgage financing for housing. Mortgage-backed securities assist in providing longer-term, fixed-rate mortgages for homebuyers and they facilitate a secondary market in mortgages. This adds to the overall supply of mortgage funds. For investors, they provide monthly payments of principal and interest at a rate of return competitive with other long-term securities. Under the National Housing Act they have the added benefit of a government guarantee of timely payment.

The amendment we have before us will allow approved lenders to insure qualified mortgages they already hold to facilitate the establishment of mortgage pools for the creation of mortgage-backed securities. This should substantially increase the quantity of securities available for investment and further support the development of a mature secondary mortgage market in Canada.

These securities are ideal for Canadians planning their retirement, and approximately 80 per cent of all sold to date have been purchased by individuals, probably a good portion of which were for registered retirement savings plans.

The impact on future financing for housing may be as great as mortgage insurance has been. Current projections are for a total of $1 billion-worth to be sold this year. They are equally valuable in helping those in greatest need, while contributing to reducing the deficit. Already $65 million of mortgage-backed securities are being used to help finance government-funded social housing in British Columbia during 1988. This is of particular benefit in social housing, as the use of mortgage-backed securities allows funds to be made available at reduced interest rates, which in turn reduces the level of subsidy required for social housing projects. It is expected that other provinces will follow British Columbia into this field. Over time, substantial savings of tax dollars may be realized throughout the country. The mortgage-backed securities program can increase the number of financing options for homebuyers.

Honourable senators, I should like to conclude by emphasizing the importance of dealing with this bill as expeditiously as possible. Affordable, adequate housing is a key factor in the quality of life in this country. The amendments will assist in achieving these objectives to the benefit of even more Canadians.

Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I first want to congratulate Senator Rossiter on her lucid explanation of Bill C-111. We support this legislation. We believe that it is in the public interest and we believe that passing it quickly will help the Canadian taxpayers who stand to benefit from it. We believe that the amendments updating the original bill are timely and support the fact that there is a noticeable improvement in the time within which services are provided.

I think Senator Rossiter would probably agree that this bill is not enough to solve the many problems that exist in housing in this country and that it does not do enough for the many Canadians who are waiting for social housing. I am sure that Senator Rossiter knows, as do all senators, that there is a shortage of decent, cheap housing for people of middle and low incomes.

But, certainly, half a loaf is better than none, especially when dealing with a problem of this dimension. It needs also to be said that some of the measures that are necessary to solve the housing problems in this country lie with other jurisdictions, such as the provinces and the municipalities, and that the problem is not one that is totally solvable by the federal government. However, we would like to think that this legislation is a mark of good faith on the part of the government. We would like to think that the government is concerned about social housing and that it will cooperate in finding solutions that go beyond this legislation.

● (1440)

The bill, as honourable senators know, passed all three stages in the other place in a single day. Considering that we will likely give unanimous support to this bill, one might think that it ought to be adopted quickly. However, there is a traditional role for the Senate with this bill of 28 pages and 37 clauses. Although it addresses directly a rather obvious problem, it is not a simple bill. I believe it should be examined in committee; according to rule 67(*m*)(vii), "housing" should go to the Social Affairs, Science and Technology Committee. I therefore request of Senator Rossiter that she refer the bill, if it receives second reading forthwith, as I believe it should, unless some other senator wants to adjourn the debate, to that committee before it receives third reading.

Hon. C. William Doody (Deputy Leader of the Government): Agreed.

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?

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

The Senate adjourned during pleasure.

At 3.30 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Gerard V. J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy 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 Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the National Transportation Act, 1987 (*Bill C-131, Chapter 26, 1988*)

An Act to regulate the marketing of agricultural products in import, export and interprovincial trade and to provide for national standards and grades of agricultural products, for their inspection and grading, for the registration of establishments and for standards governing establishments (*Bill C-141, Chapter 27, 1988*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, July 12, 1988, at 2 p.m.

APPENDIX "A"

(*See p. 3886*)

NATIONAL FINANCE

APPENDICES TO TWENTY-FIFTH REPORT OF COMMITTEE

APPENDIX "A"

BILL C-103 (PART I)

An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and to make consequential and related amendments to other Acts

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Atlantic Canada Opportunities Agency Act*.

INTERPRETATION

Definitions

2. In this Act,

"Agency" *«Agence»*

"Agency" means the Atlantic Canada Opportunities Agency established by section 9;

"Atlantic Canada" *«Canada atlantique»*

"Atlantic Canada" means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland;

"Board" *«conseil»*

"Board" means the Atlantic Canada Opportunities Board established by section 17;

"designated area" *«zone désignée»*

"designated area" means an area of Atlantic Canada designated by order of the Minister pursuant to section 6;

"Minister" *«ministre»*

"Minister" means such member of the Queen's Privy Council for Canada as is appointed by Commission under the Great Seal to be the Minister for the purposes of this Act;

APPENDICE "A"

PROJET DE LOI C-103 (PARTIE I)

Loi visant à favoriser les possibilités de développement économique du Canada atlantique, portant création de l'Agence de promotion économique du Canada atlantique et apportant des modifications corrélatives à certaines lois

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

TITRE ABRÉGÉ

Titre abrégé

1. *Loi sur l'Agence de promotion économique du Canada atlantique.*

DÉFINITIONS

Définitions

2. Les définitions qui suivent s'appliquent à la présente loi.

«Agence» "Agency"

«Agence» L'Agence de promotion économique du Canada atlantique, constituée par l'article 9.

«Canada atlantique» "Atlantic Canada"

«Canada atlantique» La Nouvelle-Écosse, le Nouveau-Brunswick, l'Île-du-Prince-Édouard et Terre-Neuve.

«conseil» "Board"

«conseil» Le Conseil de promotion économique du Canada atlantique, constitué par l'article 17.

«ministre» "Minister"

«ministre» Le membre du Conseil privé de la Reine pour le Canada chargé, par commission sous le grand sceau, de l'application de la présente loi.

«président» "President"

«président» Le président de l'Agence, nommé aux termes du paragraphe 10(1).

"President" *«président»*

"President" means the President of the Agency appointed pursuant to subsection 10(1).

«zone désignée» Zone du Canada atlantique désignée par arrêté du ministre aux termes de l'article 6. «zone désignée» *"designated area"*

PURPOSE

OBJET

Purpose

3. The purpose of this Act is to increase opportunity for economic development in Atlantic Canada and, more particularly, to enhance the growth of earned incomes and employment opportunities in that region.

3. La présente loi a pour objet de favoriser les possibilités de développement économique du Canada atlantique et, plus particulièrement, la croissance des revenus et les créations d'emplois dans cette région. Objet

POWERS, DUTIES AND FUNCTIONS OF THE MINISTER

POUVOIRS ET FONCTIONS DU MINISTRE

Powers, duties and functions of the Minister

4. (1) In furtherance of the purpose of this Act, the Minister may exercise powers and perform duties and functions that affect economic opportunity and development in Atlantic Canada over which Parliament has jurisdiction and that are not by or pursuant to law assigned to any other member of the Queen's Privy Council for Canada or to any department, board or agency of the Government of Canada.

4. (1) Pour l'application de la présente loi, le ministre peut, dans les domaines de compétence du Parlement liés à la promotion et au développement économiques du Canada atlantique, exercer les pouvoirs et fonctions non attribués de droit à un autre membre du Conseil privé de la Reine pour le Canada ni à un autre ministère ou organisme fédéral. Attributions

Coordination

(2) The Minister shall coordinate the policies and programs of the Government of Canada in relation to opportunity for economic development in Atlantic Canada.

(2) Le ministre coordonne la politique et les programmes du gouvernement fédéral pour ce qui est des possibilités de développement économique du Canada atlantique. Coordination

Advisory boards

(3) The Minister may establish advisory boards and provide for their membership, duties, functions and operation.

(3) Le ministre peut constituer des comités consultatifs et prévoir leur composition, leurs attributions et leur activité. Comités consultatifs

Expenses

(4) Subject to the approval of the Governor in Council, the Minister may provide for the payment of reasonable travel and living expenses incurred in the performance of their duties and functions by members of advisory boards established under subsection (3).

(4) Sous réserve de l'approbation du gouverneur en conseil, le ministre peut prévoir le paiement des frais de déplacement et de séjour entraînés par l'exercice des fonctions des membres des comités consultatifs constitués en application du paragraphe (3). Frais

Responsible for Agency

5. (1) The Minister is responsible for the Agency.

5. (1) Le ministre est responsable de l'Agence. Responsabilité

Agreements with provinces

(2) The Minister may, with the approval of the Governor in Council, enter into agreements with the government of any province or provinces in Atlantic Canada respecting the carrying out of any program or project of the Agency.

(2) Le ministre peut, avec l'approbation du gouverneur en conseil, conclure, avec un ou plusieurs gouvernements provinciaux du Canada atlantique, des accords relatifs à l'exécution des programmes ou opérations de l'Agence. Accords

Establishment of areas

6. The Minister may, by order, establish as a designated area, for the period set out in the order, any area in Atlantic Canada where, in the opinion of the Minister, excep-

6. Le ministre peut par arrêté, pour une période déterminée, constituer en zone désignée toute région du Canada atlantique s'il estime qu'en raison de circonstances particu- Constitution de zones désignées

tional circumstances provide opportunities for locally based improvements in productive employment.

lières, il y a des possibilités d'y améliorer la situation en matière d'emploi productif local.

Stock options

7. Subject to the regulations, the Minister may acquire, exercise, assign or sell a stock option obtained as a condition under which a loan or contribution was made, guarantee given or loan insurance or credit insurance provided under section 12.

7. Sous réserve des règlements, le ministre peut acquérir, exercer, céder ou vendre des options d'achat d'actions obtenues à titre de condition des prêts, aides, garanties, assurances-prêts ou assurances-crédit visés à l'article 12.

Options d'achat d'actions

Support for programs and projects under other Acts

8. (1) Where the Minister is satisfied that the implementation of a program or project authorized by any other Act would further the purpose of this Act, the Minister may, conditionally or unconditionally, undertake to transfer funds appropriated for the purposes of this Act to supplement funds that the Minister responsible for the program or project has undertaken to expend in connection therewith.

8. (1) Le ministre peut même inconditionnellement, s'il est convaincu que la réalisation de programmes ou d'opérations autorisés par une autre loi est conforme à la finalité de la présente loi, s'engager à majorer, sur les fonds affectés à l'application de celle-ci, les montants que le ministre responsable de ces programmes ou opérations s'est engagé à leur consacrer.

Aide aux programmes ou opérations régis par d'autres lois

Effect of undertaking

(2) Subject to compliance with any conditions attached to an undertaking given by the Minister pursuant to subsection (1) and to the approval of Parliament, funds undertaken to be transferred may be expended by the Minister responsible for the implementation of the program or project on the same terms and conditions as funds that the Minister has undertaken to expend in connection therewith.

(2) Sous réserve des éventuelles conditions attachées à l'engagement de majoration ainsi que de l'approbation du Parlement, le ministre responsable des programmes ou opérations en cause peut utiliser les fonds ainsi dégagés selon les mêmes modalités que s'il s'agissait de fonds qu'il se serait lui-même engagé à leur consacrer.

Conséquence de l'aide

Information in annual report

(3) Each annual report under subsection 20(2) shall include full and complete information relating to funds undertaken to be transferred under this section in the fiscal year to which the report relates.

(3) Chaque rapport établi en application du paragraphe 20(2) comporte toutes précisions utiles touchant les majorations octroyées, pendant l'exercice sur lequel il porte, au titre du présent article.

Rapport annuel

ATLANTIC CANADA OPPORTUNITIES AGENCY

AGENCE DE PROMOTION ÉCONOMIQUE DU CANADA ATLANTIQUE

Establishment of Agency

9. There is hereby established an agency of the Government of Canada to be known as the Atlantic Canada Opportunities Agency.

9. Est constitué un organisme fédéral appelé l'Agence de promotion économique du Canada atlantique.

Constitution

President

10. (1) The Governor in Council shall appoint an officer to be the deputy of the Minister, who shall be called the President of the Agency and who shall hold office during pleasure.

10. (1) Le gouverneur en conseil nomme le président de l'Agence à titre amovible, qui agit en qualité de délégué du ministre.

Nomination du président

Chief executive officer

(2) The President is the chief executive officer of the Agency and, under the direc-

(2) Le président est le premier dirigeant de l'Agence; à ce titre et sous l'autorité du

Attributions

tion of the Minister, has control and supervision over the work, officers and employees of the Agency.

ministre, il en assure la direction et contrôle la gestion de son personnel.

Acting President

(3) In the event of the absence or incapacity of the President or a vacancy in that office, the Minister shall appoint another person to act as the President, but no person may act as President for a period exceeding ninety days without the approval of the Governor in Council.

(3) En cas d'absence ou d'empêchement du président ou de vacance de son poste, le ministre désigne un intérimaire; cependant, l'intérim ne peut dépasser quatre-vingt-dix jours sans l'approbation du gouverneur en conseil.

Intérim

Remuneration

(4) The President shall be paid such remuneration as may be fixed by the Governor in Council.

(4) Le président reçoit la rémunération fixée par le gouverneur en conseil.

Rémunération

OBJECT, POWERS AND DUTIES

MISSION

Object

11. The object of the Agency is to support and promote opportunity for economic development of Atlantic Canada, with particular emphasis on small and medium-sized enterprises, through policy, program and project development and implementation and through advocacy of the interests of Atlantic Canada in national economic policy, program and project development and implementation.

11. L'Agence a pour mission de favoriser les possibilités de développement économique du Canada atlantique par des mesures — élaboration et mise en oeuvre d'orientations, de programmes et d'opérations — particulières, notamment en faveur des petites et moyennes entreprises, et par la défense des intérêts du Canada atlantique lors de la prise de mesures de ce genre dans le cadre de la politique économique nationale.

Mission

Powers

12. In carrying out its object, the Agency may

(*a*) in concert with other concerned departments and agencies of the Government of Canada, formulate plans and integrated federal approaches to support opportunity for economic development of Atlantic Canada;

(*b*) plan, direct, manage and implement programs and projects intended to contribute directly or indirectly to

(i) the establishment, development, support and promotion of enterprises, and more particularly small and medium-sized enterprises, in Atlantic Canada,

(ii) the development of entrepreneurial talent in that region, and

(iii) the economic prosperity of that region;

(*c*) plan, direct, manage and implement programs and projects to improve the business environment in Atlantic Canada, including programs and projects

12. L'Agence peut, dans le cadre de sa mission :

a) de concert avec les autres ministères ou organismes fédéraux, élaborer des projets et des méthodes fédérales unifiées en vue de favoriser les possibilités de développement économique du Canada atlantique;

b) concevoir, réaliser, diriger et gérer des programmes ou opérations destinés à contribuer, même indirectement :

(i) à la création, au développement, au soutien et à la promotion d'entreprises, et plus particulièrement de petites et moyennes entreprises, au Canada atlantique,

(ii) à la valorisation de l'esprit d'entreprise dans la région,

(iii) à la prospérité économique de la région;

c) concevoir, réaliser, diriger et gérer des programmes ou opérations visant à améliorer le contexte commercial du Canada atlantique, notamment en ce qui concerne :

Pouvoirs

(i) of support to business associations, conferences, studies, consultations, trade shows, demonstration projects and market research,

(ii) related to the development of business opportunity data banks and networks,

(iii) to improve business communication and cooperation, and

(iv) to promote scholarship related to business and investment;

(*d*) assist investors to locate enterprises, and more particularly small and medium-sized enterprises, in Atlantic Canada, consistent with Atlantic Canada and federal investment requirements;

(*e*) make loans to any person with respect to the establishment and development of enterprises, and more particularly small and medium-sized enterprises, in Atlantic Canada;

(*f*) guarantee the repayment of, or provide loan insurance or credit insurance in respect of, any financial obligation undertaken by any person in respect of the establishment and development of enterprises, and more particularly small and medium-sized enterprises, in Atlantic Canada;

(*g*) in accordance with terms and conditions approved by Treasury Board, make grants and contributions in support of programs and projects undertaken by the Agency or the Minister;

(*h*) enter into contracts, memoranda of understanding or other arrangements in the name of Her Majesty in right of Canada or in the name of the Agency; and

(*i*) do all such other things as are necessary or incidental to the attainment of the object of the Agency.

Duties

13. The Agency shall assist the Minister

(*a*) generally, in the exercise of powers and the performance of duties and functions under this Act and any other Act in relation to which powers, duties and functions are assigned to the Minister in relation to opportunity for economic development of Atlantic Canada;

(i) dans le domaine des affaires, les aides aux associations, conférences, recherches, consultations, expositions et projets de démonstration ainsi qu'aux études de marché,

(ii) la création de fichiers et de réseaux informatisés sur les perspectives commerciales,

(iii) l'amélioration de l'information et de la coopération commerciales,

(iv) l'avancement du savoir dans le domaine des affaires et des investissements;

d) aider les investisseurs à implanter des entreprises, et plus particulièrement des petites et moyennes entreprises, au Canada atlantique, compte tenu des besoins de cette région et des exigences fédérales en matière d'investissements;

e) accorder des prêts pour la création et le développement des entreprises, et plus particulièrement des petites et moyennes entreprises, au Canada atlantique;

f) garantir le remboursement de tout engagement financier contracté par quiconque aux fins visées à l'alinéa *e*), ou souscrire des assurances-prêts ou assurances-crédit à cet égard;

g) contribuer, par des subventions ou autres aides, au financement de programmes ou opérations entrepris par elle-même ou le ministre, conformément aux modalités approuvées par le Conseil du Trésor;

h) conclure des contrats, ententes ou autres arrangements sous le nom de Sa Majesté du chef du Canada ou le sien;

i) prendre toute autre mesure utile à la réalisation de sa mission.

Obligations

13. L'Agence assiste le ministre :

a) d'une façon générale, dans l'exercice des attributions conférées au ministre sous le régime de la présente loi ou de toute autre loi pour ce qui est des possibilités de développement économique du Canada atlantique;

(*b*) in the coordination of policies and programs of the Government of Canada in relation to opportunity for economic development of Atlantic Canada;

(*c*) by administering any agreements entered into by the Minister with a province or provinces;

(*d*) in the exercise of powers conferred on the Minister by section 7; and

(*e*) by compiling detailed information on all programs and projects undertaken by the Agency or the Minister for the purpose of measuring trends, development and progress in the economic development of Atlantic Canada.

b) dans la coordination de la politique et des programmes fédéraux relatifs aux possibilités de développement économique du Canada atlantique;

c) dans la mise en oeuvre des accords conclus par le ministre avec les provinces;

d) dans l'exercice des attributions conférées au ministre par l'article 7;

e) dans la collecte de données précises sur l'ensemble des programmes et opérations entrepris par elle-même ou le ministre, en vue de mesurer les tendances et l'évolution de la conjoncture dans le développement économique du Canada atlantique.

GENERAL

DISPOSITIONS GÉNÉRALES

Officers and employees

14. (1) Such officers and employees as are necessary for the proper conduct of the work of the Agency shall be appointed in accordance with the *Public Service Employment Act*.

14. (1) Le personnel nécessaire à l'exécution des travaux de l'Agence est nommé conformément à la *Loi sur l'emploi dans la Fonction publique*. Personnel

Government services and facilities

(2) In exercising its powers and performing its duties and functions under this Act, the Agency shall, where appropriate, make use of the services and facilities of departments, boards and agencies of the Government of Canada.

(2) Dans l'exercice de ses attributions, l'Agence fait usage, en tant que de besoin, des installations et services des ministères et organismes fédéraux. Usage des services fédéraux

Offices

15. The principal office of the Agency shall be in Moncton, New Brunswick, but the Agency shall maintain at least one office in each other province in Atlantic Canada.

15. Le siège de l'Agence est fixé à Moncton, au Nouveau-Brunswick; cependant, l'Agence tient au moins un bureau dans chacune des autres provinces du Canada atlantique. Siège

Contracts binding on Her Majesty

16. (1) Every contract, memorandum of understanding and arrangement entered into by the Agency in its own name is binding on Her Majesty in right of Canada to the same extent as it is binding on the Agency.

16. (1) Les contrats, ententes ou autres arrangements conclus par l'Agence sous son propre nom lient Sa Majesté du chef du Canada au même titre qu'elle-même. Contrats

Legal proceedings

(2) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Agency, whether in its own name or in the name of Her Majesty, may be brought or taken by or against the Agency in the name of the Agency in any court that would have jurisdiction if the Agency were a corporation that is not an agent of Her Majesty.

(2) À l'égard des droits et obligations qu'elle assume sous le nom de Sa Majesté ou le sien, l'Agence peut ester en justice sous son propre nom devant tout tribunal qui serait compétent si elle était dotée de la personnalité morale et n'avait pas la qualité de mandataire de Sa Majesté. Actions en justice

ATLANTIC CANADA OPPORTUNITIES BOARD

CONSEIL DE PROMOTION ÉCONOMIQUE DU CANADA ATLANTIQUE

Establishment of Board

17. (1) There is hereby established a board to be known as the Atlantic Canada Opportunities Board, consisting of the President and not more than eighteen other members appointed by the Governor in Council on the recommendation of the Minister to hold office during pleasure for a term not exceeding three years.

17. (1) Est constitué le Conseil de promotion économique du Canada atlantique, composé d'au plus dix-neuf membres, ou conseillers, dont le président, nommés à titre amovible par le gouverneur en conseil sur recommandation du ministre pour un mandat maximal de trois ans.

Constitution du conseil

Object

(2) The object of the Board is to assist the Agency in the exercise of its powers and the performance of its duties and functions.

(2) Le conseil a pour mission d'aider l'Agence dans l'exercice de ses attributions.

Mission

Membership

(3) The Board shall include persons from each province in Atlantic Canada.

(3) Le conseil comprend des représentants de chacune des provinces du Canada atlantique.

Représentation

Chairman

(4) The President is the Chairman of the Board, but in the event of absence of the President, another member of the Board designated by the President shall act as chairman of the Board.

(4) Le président de l'Agence assure la présidence du conseil; en prévision de son absence de ce dernier poste, il choisit un intérimaire parmi les conseillers.

Président

Acting member

(5) In the event of the absence or incapacity of a member of the Board other than the President, the Minister may designate a person to act as a member, but no person may act as a member for a period exceeding ninety days without the approval of the Governor in Council.

(5) En cas d'absence ou d'empêchement d'un simple conseiller, le ministre désigne un intérimaire; cependant, l'intérim ne peut dépasser quatre-vingt-dix jours sans l'approbation du gouverneur en conseil.

Absence ou empêchement

Re-appointment

(6) A member of the Board other than the President, on the expiration of a first term of office, is eligible to be re-appointed for one further term only.

(6) Le mandat des simples conseillers ne peut être reconduit qu'une fois.

Reconduction du mandat

Remuneration and expenses

(7) Each member of the Board, other than the President, is entitled to be paid, for each day on which the member attends a meeting of the Board and for services provided to the Agency other than at a meeting of the Board, such remuneration as may be fixed by the Governor in Council and shall be paid reasonable travel and living expenses incurred by the member in the performance of duties and functions as such.

(7) Les simples conseillers ont droit à la rémunération fixée par le gouverneur en conseil pour chaque jour de présence aux réunions du conseil et pour les services fournis à l'Agence en dehors de ces réunions. Ils ont également droit aux frais de déplacement et de séjour entraînés par l'exercice de leurs fonctions.

Rémunération et indemnités

Meetings

18. (1) The Board shall meet at least once every three months at such times and places as the President may select.

18. (1) Le conseil se réunit au moins tous les trois mois, aux date, heure et lieu choisis par le président.

Réunions

Quorum

(2) At a meeting of the Board, eight members thereof, including the President or the member designated pursuant to subsection

(2) Huit personnes, y compris le président ou l'intérimaire, constituent le quorum aux réunions du conseil.

Quorum

17(4) to act as chairman at that meeting, constitute a quorum.

REGULATIONS

Regulations

19. (1) The Minister may make regulations

(*a*) specifying programs and projects in addition to those referred to in paragraph 12(*c*) to improve the business environment in Atlantic Canada;

(*b*) defining, for the purposes of this Act, the expressions "small and medium-sized enterprises", "project" and "demonstration projects" and the class or classes of small and medium-sized enterprises and of operations and activities eligible for support by the Agency under this Act; and

(*c*) generally for carrying out the purposes and provisions of this Act.

Idem

(2) The Minister may, with the approval of the Minister of Finance, make regulations

(*a*) relating to loans that may be made, guarantees that may be given and loan insurance and credit insurance that may be provided under this Act; and

(*b*) specifying the circumstances in which and the manner in which the Minister may acquire, exercise, assign or sell a stock option obtained as a condition under which a contribution or loan was made, a guarantee given or loan insurance or credit insurance provided under this Act.

Designated area regulations

(3) In order to exploit the opportunities for locally based improvements in productive employment identified in a designated area, regulations specially applicable to that area may be made under the authority of this section that vary from regulations of general application to Atlantic Canada.

ANNUAL REPORT

Annual report of Agency

20. (1) The President shall, within four months after the end of each fiscal year, submit a report on the operations of the Agency in that year to the Minister.

Quinquennial report

(2) That the Agency produce after each five years a comprehensive report exclusive of its Annual Report providing an evaluation of all activities in which the Agency was

POUVOIR RÉGLEMENTAIRE

Pouvoir réglementaire

19. (1) Le ministre peut, par règlement :

a) préciser les programmes ou opérations propres à améliorer le contexte commercial du Canada atlantique, outre ceux mentionnés à l'alinéa 12*c*);

b) pour l'application de la présente loi, définir «petites et moyennes entreprises», «opérations» et «projets de démonstration» et préciser les catégories de petites et moyennes entreprises et d'opérations ou activités susceptibles d'aides de la part de l'Agence au titre de la présente loi;

c) prendre toute autre mesure d'application de la présente loi.

Idem

(2) Le ministre peut, avec l'approbation du ministre des Finances, prendre des règlements d'application de la présente loi :

a) concernant les prêts ou garanties pouvant être accordés et les assurances-prêts ou assurances-crédit pouvant être souscrites;

b) concernant la façon dont il peut acquérir, exercer, céder ou vendre des options d'achat d'actions obtenues à titre de condition des prêts, aides, garanties, assurances-prêts ou assurances-crédit et les circonstances de ces opérations.

Règlement concernant les zones spéciales

(3) Il peut être pris au titre du présent article, à l'égard des zones désignées où il y a des possibilités d'améliorer la situation en matière d'emploi productif local, des règlements différents de ceux qui s'appliquent généralement au Canada atlantique.

RAPPORT ANNUEL

Rapport annuel de l'Office

20. (1) Dans les quatre mois suivant la fin de chaque exercice, le président présente au ministre le rapport d'activité de l'Agence pour l'exercice.

Rapport global d'évaluation

(2) L'Agence produit tous les cinq ans, en sus de son rapport annuel, un rapport global d'évaluation de ses activités et de leur effet sur les disparités régionales.

involved and the impact those activities have had on regional disparity.

Annual report by Minister

(3) The Minister shall cause to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after September 30 next following the end of each fiscal year, a report, including a copy of the report submitted to the Minister under subsection (1), on the administration of this Act for that fiscal year.

Rapport annuel du ministre

(3) Le ministre fait déposer devant chaque chambre du Parlement, dans les quinze premiers jours de séance de celle-ci suivant le 30 septembre, son rapport sur l'application de la présente loi au cours de l'exercice précédant cette date, en y joignant un exemplaire du rapport de l'Agence.

TRANSITIONAL

DISPOSITIONS TRANSITOIRES

Appropriations based on Estimates

21. The provisions made by any appropriation Act for the fiscal year in which this section comes into force, based on the Estimates for that year to defray the charges and expenses of the public service of Canada within the Department of Regional Industrial Expansion in relation to any matter in Atlantic Canada to which the powers, duties or functions of the Minister or the Agency extend by law, shall be applied to such classifications of the public service within the Agency as the Governor in Council may determine.

Transfert des crédits consécutifs aux prévisions budgétaires

21. Les sommes affectées, pour l'exercice en cours lors de l'entrée en vigueur du présent article, par toute loi de crédits consécutive aux prévisions budgétaires de cet exercice, à la prise en charge des frais et dépenses d'administration publique du ministère de l'Expansion industrielle régionale dans des domaines relevant de droit du ministre ou de l'Agence sont transférées, en ce qui concerne le Canada atlantique et dans la mesure déterminée par le gouverneur en conseil, à la prise en charge des frais et dépenses d'administration publique de l'Agence.

Transfer of powers, duties and functions

22. Wherever under any Act, order, rule or regulation, or any contract, lease, licence or other document, any power, duty or function is vested in or exercisable by the Minister of Regional Industrial Expansion, the Deputy Minister of Regional Industrial Expansion or any other officer of the Department of Regional Industrial Expansion in relation to any matter in Atlantic Canada to which the powers, duties or functions of the Minister of the Agency extend by law, the power, duty or function is vested in and shall be exercised by the Minister, the President or the appropriate officer of the Agency, as the case may be, unless the Governor in Council by order designates another Minister, deputy minister or officer of a department or a portion of the public service of Canada to exercise such power, duty or function.

Transfert d'attributions

22. Les attributions conférées, dans des domaines relevant de droit du ministre ou de l'Agence, en vertu d'une loi, d'un règlement, d'un décret, d'un arrêté, d'une ordonnance ou d'une règle, ou au titre d'un contrat, bail, permis ou autre document, au ministre ou au sous-ministre de l'Expansion industrielle régionale, ou à un fonctionnaire de ce ministère, sont transférées selon le cas, en ce qui concerne le Canada atlantique, au ministre, au président ou au fonctionnaire compétent de l'Agence, sauf décret du gouverneur en conseil chargeant de ces attributions un autre ministre ou sous-ministre, ou un fonctionnaire d'un autre ministère ou secteur de l'administration publique fédérale.

Deemed appointment

23. Every indeterminate employee in the public service of Canada who is transferred to a position in the Agency from the public service of Canada within ninety days after the day on which this section comes into

Présomption

23. Les membres du personnel nommés pour une période indéterminée dans l'administration publique fédérale et qui sont mutés à l'Agence dans les quatre-vingt-dix jours suivant l'entrée en vigueur du présent article

force is deemed to have been appointed to the Agency in accordance with subsection 14(1).

sont réputés y avoir été nommés aux termes du paragraphe 14(1).

CONSEQUENTIAL AND RELATED AMENDMENTS

MODIFICATIONS CORRÉLATIVES ET CONNEXES

1980-81-82-83, c. 111, Sch. I

Access to Information Act

24. Schedule I to the *Access to Information Act* is amended by adding thereto, in alphabetical order under the heading "*Other Government Institutions*", the following:

"Atlantic Canada Opportunities Agency
Agence de promotion économique du Canada atlantique"

1980-81-82-83, ch. 111, ann. I

Loi sur l'accès à l'information

24. L'annexe I de la *Loi sur l'accès à l'information* est modifiée par insertion, suivant l'ordre alphabétique, sous l'intertitre «*Autres institutions fédérales*», de ce qui suit :

«Agence de promotion économique du Canada atlantique
Atlantic Canada Opportunities Agency»

1980-81-82-83, c. 160

Industrial and Regional Development Act

25. The definition "Minister" in section 2 of the *Industrial and Regional Development Act* is repealed and the following substituted therefor:

"Minister" «*ministre*»

" "Minister", in relation to any class of matters to which this Act extends in any province or region of a province, means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act in relation to that class of matters in that province or region of a province;"

1980-81-82-83, ch. 160

Loi sur le développement industriel et régional

25. La définition de «ministre», à l'article 2 de la *Loi sur le développement industriel et régional*, est abrogée et remplacée par ce qui suit :

«ministre» Le membre du Conseil privé de la Reine pour le Canada chargé par le gouverneur en conseil de l'application de la présente loi relativement aux domaines auxquels cette loi s'étend dans toute province ou région de celle-ci.»

«ministre» "Minister"

1980-81-82-83, c. 111, Sch. II

Privacy Act

26. The schedule to the *Privacy Act* is amended by adding thereto, in alphabetical order under the heading "*Other Government Institutions*, the following:

"Atlantic Canada Opportunities Agency
Agence de promotion économique du Canada atlantique"

1980-81-82-83, ch. 111, ann. II

Loi sur la protection des renseignements personnels

26. L'annexe de la *Loi sur la protection des renseignements personnels* est modifiée par insertion, suivant l'ordre alphabétique, sous l'intertitre «*Autres institutions fédérales*», de ce qui suit :

«Agence de promotion économique du Canada atlantique
Atlantic Canada Opportunities Agency»

R.S., c. P-35

Public Service Staff Relations Act

27. Part I of Schedule I to the *Public Service Staff Relations Act* is amended by adding thereto, in alphabetical order, the following:

S.R., ch. P-35

Loi sur les relations de travail dans la Fonction publique

27. La partie I de l'annexe I de la *Loi sur les relations de travail dans la Fonction publique* est modifiée par adjonction de ce qui suit :

"Atlantic Canada Opportunities Agency"

«Agence de promotion économique du Canada atlantique»

R.S., c. P-36 *Public Service Superannuation Act* *Loi sur la pension de la Fonction publique* S.R., ch. P-36

28. Part I of Schedule A to the *Public Service Superannuation Act* is amended by adding thereto, in alphabetical order, the following:

"Atlantic Canada Opportunities Agency"

28. La partie I de l'annexe A de la *Loi sur la pension de la Fonction publique* est modifiée par adjonction de ce qui suit :

«Agence de promotion économique du Canada atlantique»

R.S., c. R-3 *Regional Development Incentives Act* *Loi sur les subventions au développement régional* S.R., ch. R-3

1980-81-82-83, c. 167, s. 34, Sch. I (item 21(1))

29. The definition "Minister" in section 2 of the *Regional Development Incentives Act* is repealed and the following substituted therefor:

"Minister" «*ministre*»

" "Minister" in relation to any class of matters to which this Act extends in any province or region of a province, means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act in relation to that class of matters in that province or region of a province;"

29. La définition de «ministre», à l'article 2 de la *Loi sur les subventions au développement régional*, est abrogée et remplacée par ce qui suit :

1980-81-82-83, ch. 167, art. 34, ann. I, par. 21(1)

«ministre» "*Minister*"

«ministre» Le membre du Conseil privé de la Reine pour le Canada chargé par le gouverneur en conseil de l'application de la présente loi relativement aux domaines auxquels cette loi s'étend dans toute province ou région de celle-ci.»

R.S., c. S-2 *Salaries Act* *Loi sur les traitements* S.R., ch. S-2

30. Section 4 of the *Salaries Act* is amended by adding thereto the following:

"The Member of the Queen's Privy Council for Canada appointed by Commission under the Great Seal to be the Minister for the purposes of the *Atlantic Canada Opportunities Agency Act*

.....30,800."

30. L'article 4 de la *Loi sur les traitements* est modifié par adjonction de ce qui suit :

«Le membre du Conseil privé de la Reine pour le Canada chargé, par commission sous le grand sceau, de l'application de la Loi sur l'Agence de promotion économique du Canada atlantique

.....30 800»

R.S., c. R-4; 1980-81-82-83, c. 167, s. 19 *Special Areas Act* *Loi sur les zones spéciales* S.R., ch. R-4; 1980-81-82-83, ch. 167, art. 19

1980-81-82-83, c. 167, s. 19

31. Section 2 of the *Special Areas Act* is repealed and the following substituted therefor:

Definition of "Minister"

"**2.** In this Act, "Minister" in relation to any class of matters to which this Act extends in any province or region of a province, means such member of the Queen's Privy Council for Canada as is designated by the Governor in Council as the Minister for the purposes of this Act in

31. L'article 2 de la *Loi sur les zones spéciales* est abrogé et remplacé par ce qui suit :

1980-81-82-83, ch. 167, art. 19

Définition de «ministre»

«**2.** Dans la présente loi, «ministre» s'entend du membre du Conseil privé de la Reine pour le Canada chargé par le gouverneur en conseil de l'application de la présente loi relativement aux domaines auxquels cette loi s'étend dans toute province ou région de celle-ci.»

relation to that class of matters in that province or region of a province."

COMING INTO FORCE

Coming into force

32. This Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council.

ENTRÉE EN VIGUEUR

Entrée en vigueur

32. La présente loi ou telle de ses dispositions entre en vigueur à la date ou aux dates fixées par décret du gouverneur en conseil.

APPENDIX "B"

BILL C-103 (PART II)

An Act to establish the Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the *Enterprise Cape Breton Corporation Act*.

INTERPRETATION

Definitions

2. In this Act,

"Board" «*Conseil*»

"Board" means the Board of Directors of the Corporation;

"Cape Breton Island" «*Île du Cap-Breton*»

"Cape Breton Island" means Cape Breton Island and that portion of the Province of Nova Scotia within the following described boundary:

beginning at a point on the southwesterly shore of Chedabucto Bay near Red Head, said point being S70 degrees E (Nova Scotia grid meridian) from Geodetic Station Sand, thence in a southwesterly direction to a point on the northwesterly boundary of highway 344, said point being southwesterly 240 feet from the intersection of King Brook with said highway boundary, thence northwesterly to Crown post 6678, thence continuing northwesterly to Crown post 6679, thence continuing northwesterly to Crown post 6680, thence continuing northwesterly to Crown post

APPENDICE "B"

PROJET DE LOI C-103 (PARTIE II)

Loi portant création de la Société d'expansion du Cap-Breton et apportant des modifications corrélatives à certaines lois

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

TITRE ABRÉGÉ

1. *Loi sur la Société d'expansion du Cap-Breton.*

Titre abrégé

DÉFINITIONS

Définitions

2. Les définitions qui suivent s'appliquent à la présente loi.

«conseil» "Board"

«conseil» Le conseil d'administration de la Société.

«Île du Cap-Breton» "Cape Breton Island"

«Île du Cap-Breton» s'entend de l'Île du Cap-Breton et de la partie de la province de la Nouvelle-Écosse délimitée comme suit :

à partir du point situé sur la côte sud-ouest de la baie Chedabucto près de Red Head qui se trouve à S70 degrés E (ligne d'absisse constante de la Nouvelle-Écosse) de la station géodésique Sand, vers le sud-ouest, jusqu'au point, situé sur la limite nord-ouest de la route 344, qui se trouve à 240 pieds sud-ouest de l'intersection de King Brook et de cette limite, de là, vers le nord-ouest, jusqu'au repère de la Couronne 6678, puis jusqu'au repère de la Couronne 6679, puis jusqu'au repère de la Couronne 6680, puis jusqu'au repère de la Couronne 6681, puis jusqu'au repère de

6681, thence continuing northwesterly to Crown post 6632, thence continuing northwesterly to Crown post 6602, thence northerly to Crown post 8575, thence northerly to Crown post 6599, thence continuing northerly to Crown post 6600, thence northwesterly to the southwest angle of the Town of Mulgrave, then along the westerly boundary of the Town of Mulgrave and a prolongation thereof northerly to the Antigonish-Guysborough county line, thence along said county line northeasterly to the southwesterly shore of the Strait of Canso, thence following the southwesterly shore of the Strait of Canso and the northwesterly shore of Chedabucto Bay southeasterly to the place of beginning;

"Corporation" «*Société*»

"Corporation" means the Enterprise Cape Breton Corporation;

"Minister" «*ministre*»

"Minister" means the member of the Queen's Privy Council for Canada appointed by Commission under the Great Seal to be the Minister for the purposes of the *Atlantic Canada Opportunities Agency Act*;

"President" «*président*»

"President" means the President of the Atlantic Canada Opportunities Agency appointed pursuant to subsection 10(1) of the *Atlantic Canada Opportunities Agency Act*;

"Vice-President" «*vice-président*»

"Vice-President" means the Vice-President of the Corporation appointed pursuant to subsection 4(1).

la Couronne 6632, puis jusqu'au repère de la Couronne 6602; de là, vers le nord, jusqu'au repère de la Couronne 8575, puis jusqu'au repère de la Couronne 6599, puis jusqu'au repère de la Couronne 6600; de là, vers le nord-ouest, jusqu'à l'angle des limites sud et ouest de la ville de Mulgrave, puis le long de la limite ouest de cette ville, se prolongeant vers le nord jusqu'à la limite du comté d'Antigonish-Guysborough; de là, le long de cette limite de comté, vers le nord-est, jusqu'à la côte sud-ouest du détroit de Canso; de là, le long de la côte sud-ouest du détroit de Canso et de la côte nord-ouest de la baie Chedabucto, vers le sud-est, jusqu'au point de départ;

«ministre» "*Minister*"

«ministre» Le membre du Conseil privé de la Reine pour le Canada chargé, par commission sous le grand sceau, de l'application de la *Loi sur l'Agence de promotion économique du Canada atlantique*.

«président» "*President*"

«président» Le président de l'Agence de promotion économique du Canada atlantique nommé en vertu du paragraphe 10(1) de la *Loi sur l'Agence de promotion économique du Canada atlantique*.

«Société» "*Corporation*"

«Société» La Société d'expansion du Cap-Breton.

«vice-président» "*Vice-President*"

«vice-président» Le vice-président de la Société nommé en vertu du paragraphe 4(1).

CORPORATION ESTABLISHED

Corporation established

3. A corporation is hereby established to be called the Enterprise Cape Breton Corporation, consisting of a Board of Directors comprised of the President, the Vice-President and five other directors to be appointed in the manner provided in subsection 3(2).

Vice-President

4. (1) The Vice-President shall be appointed by the Governor in Council for such term as the Governor in Council deems appropriate and may be removed at any time by the Governor in Council.

CONSTITUTION DE LA SOCIÉTÉ

Composition

3. Est constituée la Société d'expansion du Cap-Breton, dotée de la personnalité morale et formée d'un conseil d'administration de sept membres, dont le président de l'Agence de promotion économique du Canada atlantique et le vice-président, nommés conformément au paragraphe 3(2).

Vice-président

4. (1) Le gouverneur en conseil nomme à titre amovible le vice-président pour le mandat qu'il estime indiqué.

Directors

(2) Each director, other than the President and the Vice-President, shall be appointed by the Minister, with the approval of the Governor in Council, to hold office for such term, not exceeding three years, as will ensure, as far as possible, the expiration in any one year of the terms of office of not more than one-half of the directors, but may be removed at any time by the Minister, with the approval of the Governor in Council.

Autres administrateurs

(2) Le ministre, avec l'approbation du gouverneur en conseil, nomme à titre amovible chacun des autres administrateurs pour un mandat maximal de trois ans; les nominations sont faites, dans la mesure du possible, de façon que, chaque année, la moitié au plus des mandats arrive à expiration. Il peut les révoquer en cours de mandat avec l'approbation du gouverneur en conseil.

Re-appointment

(3) The Vice-President is eligible for re-appointment on the expiration of a term of office, but, notwithstanding subsection 114(3) of the *Financial Administration Act*, any other director who has served two consecutive terms is not, during the twelve months following the completion of a second term, eligible for appointment except as President or Vice-President.

Reconduction

(3) Sous réserve du paragraphe (5), le mandat du vice-président peut être reconduit. Par contre, malgré le paragraphe 114(3) de la *Loi sur l'administration financière* et sauf s'il s'agit d'occuper le poste de président ou vice-président, les autres administrateurs ne peuvent, après une première reconduction, être nommés de nouveau qu'après douze mois suivant la fin de leur second mandat.

Vacancy

(4) A vacancy on the Board does not impair the right of the remaining directors to act but where any such vacancy occurs it shall be filled as soon as practicable by appointment in the manner provided in this section.

Vacance

(4) Une vacance au sein du conseil n'entrave pas le fonctionnement de la Société, mais le poste vacant doit être rempli dès que possible conformément au présent article.

President to preside at meetings

5. The President shall preside at meetings of the Board but in the event of the absence or incapacity of the President, or if the office of President is vacant, the Vice-President shall preside at such meetings.

Présidence des réunions

5. Le président — ou, en cas d'absence ou d'empêchement de celui-ci ou de vacance de son poste, le vice-président — préside les réunions du conseil.

Management vested in President

6. (1) The President is the chief executive officer of the Corporation and has, on behalf of the Board, the direction and control of the business of the Corporation with authority to act in the conduct of the business of the Corporation in all matters that are not by this Act or by the by-laws of the Corporation specifically reserved to be done by the Board.

Fonctions du président

6. (1) Le président est le premier dirigeant de la Société; à ce titre et au nom du conseil, il assure la direction de la Société. Il est investi à cet effet des pouvoirs qui ne sont pas expressément réservés au conseil par la présente loi ou les règlements administratifs de la Société.

Vice-President to be chief operating officer

(2) The Vice-President is the chief operating officer of the Corporation and has, on behalf of the President, the direction and control of the day-to-day operations of the Corporation with authority to act in the conduct of the business of the Corporation in all matters that are not by this Act or by the by-laws of the Corporation specifically reserved to be done by the Board or the President.

Fonctions du vice-président

(2) Le vice-président est le directeur général de la Société; à ce titre et au nom du président, il assure la direction quotidienne des activités de la Société. Il est investi à cet effet des pouvoirs qui ne sont pas expressément réservés au conseil ou au président par la présente loi ou les règlements administratifs de la Société.

Absence or incapacity of Vice-President

(3) In the event of the absence or incapacity of the Vice-President, or if the office of Vice-President is vacant, the Board shall authorize an officer or director of the Corporation to act as the Vice-President for the time being, but no person so authorized by the Board has authority to act as Vice-President for a period exceeding sixty days without the approval of the Governor in Council.

(3) En cas d'absence ou d'empêchement du vice-président ou de vacance de son poste, le conseil autorise un autre dirigeant ou administrateur de la Société à exercer la vice-présidence. La durée de l'intérim est, sauf prorogation approuvée par le gouverneur en conseil, limitée à soixante jours.

Absence ou empêchement du vice-président

Salaries and fees

7. (1) The Vice-President shall be paid by the Corporation a salary to be fixed by the Governor in Council and the other directors, other than the President, shall be paid by the Corporation such fees for attendances at meetings of the Board or any committee thereof as are fixed by the Governor in Council.

7. (1) Le vice-président reçoit de la Société le traitement que fixe le gouverneur en conseil. Les autres administrateurs, à l'exception du président, reçoivent de la Société, pour leur présence aux réunions du conseil ou de tout comité de celui-ci, la rétribution fixée par le gouverneur en conseil.

Traitement et rétribution

Expenses

(2) Each director other than the President is entitled to be paid by the Corporation such travel and living expenses incurred in the performance of duties as such as are fixed by by-law of the Corporation.

(2) Les administrateurs, à l'exception du président, sont indemnisés, conformément aux règlements administratifs de la Société, des frais de déplacement et de séjour engagés pour l'accomplissement de leurs fonctions.

Indemnités

Staff

8. (1) The Corporation may employ such officers and employees and technical and professional advisers as it considers necessary for the proper conduct of its activities.

8. (1) La Société peut employer le personnel — technique ou autre — qu'elle estime nécessaire à son fonctionnement.

Personnel

Remuneration and terms and conditions of employment

(2) The persons employed pursuant to subsection (1) shall be paid by the Corporation such remuneration as is fixed or provided for by the Board and shall be employed on such terms and conditions as are fixed or provided for by by-laws of the Corporation.

(2) La rémunération du personnel visé au paragraphe (1) est fixée par le conseil et versée par la Société. Leurs autres conditions d'emploi sont fixées par règlement administratif de la Société.

Rémunération et conditions d'emplois

OBJECTS AND POWERS

MISSION ET POUVOIRS

Objects

9. The objects of the Corporation are to promote and assist, either alone or in conjunction with any person or the Government of Canada or of Nova Scotia or any agency of either of those governments, the financing and development of industry on the Island of Cape Breton to provide employment outside the coal producing industry and to broaden the base of the economy of the Island.

9. La Société a pour mission d'encourager et d'aider, de concert éventuellement avec le gouvernement du Canada ou de la Nouvelle-Écosse, leurs organismes ou toute autre personne publique ou privée, le financement et le développement de l'industrie dans l'île du Cap-Breton en vue de créer des emplois en dehors du secteur de l'industrie houillère et de diversifier l'économie de l'île.

Mission

Powers

10. (1) In carrying out its objects, the Corporation may

(*a*) where a company or person is carrying on or proposing to carry on a business or enterprise that the Corporation considers

10. La Société peut, dans le cadre de sa mission :

a) dans les cas où un entrepreneur exerce ou se propose d'exercer des activités qu'elle juge de nature à contribuer de

Pouvoirs

is likely to make a substantial contribution to the industrial development of Cape Breton Island,

(i) lend money, either with or without security and at such rate of interest as the Corporation considers appropriate or without interest, to the company or person,

(ii) make grants to the company or person,

(iii) notwithstanding section 101 of the *Financial Administration Act*, invest in the shares or securities of the company or person and hold or sell or otherwise dispose of such shares or securities, or

(iv) with the approval of the Governor in Council on the recommendation of the Minister and the Minister of Finance, guarantee repayment by the company or person of any moneys borrowed by it or that person and the payment of all or any portion of the interest thereon;

(*b*) purchase, lease or otherwise acquire any lands or interests therein on Cape Breton Island and manage, improve, develop or otherwise deal with or administer the same;

(*c*) sell or otherwise dispose of any lands or interests therein acquired by it for such consideration as the Corporation thinks fit and for cash or credit or part cash and part credit or for shares or securities of any company or person carrying on or proposing to carry on a business or enterprise that the Corporation considers is likely to make a substantial contribution to the industrial development of Cape Breton Island;

(*d*) take or hold mortgages, hypothecs, liens or charges to secure payment of the sale price of any lands sold or disposed of by it or for any unpaid balance of any such sale price and sell or otherwise dispose of such mortgages, hypothecs, liens or charges;

(*e*) advertise industrial opportunities on Cape Breton Island both within and outside Canada, publish and distribute brochures and other similar material and

façon appréciable au développement industriel de l'île du Cap-Breton :

(i) lui consentir des prêts, avec ou sans garantie et au taux d'intérêt qu'elle juge indiqué, ou sans intérêt,

(ii) lui accorder des subventions,

(iii) malgré l'article 101 de la *Loi sur l'administration financière*, faire des placements dans ses actions ou valeurs, et détenir ou aliéner, notamment par vente, ces actions ou valeurs,

(iv) avec l'approbation du gouverneur en conseil accordée sur la double recommandation du ministre et du ministre des Finances, garantir le remboursement par lui des emprunts qu'il a contractés et le paiement de tout ou partie des intérêts afférents;

b) acheter, prendre à bail ou, d'une façon générale, acquérir des immeubles situés dans l'île du Cap-Breton — ou des droits sur ceux-ci — et les gérer, les aménager et les exploiter ou prendre toute autre mesure à leur sujet;

c) aliéner, notamment par vente, les immeubles — ou les droits sur ceux-ci — qu'elle a acquis pour la contrepartie qu'elle estime appropriée, en tout ou en partie au comptant ou à crédit, ou contre des actions ou des valeurs de tout entrepreneur — personne physique ou morale — qu'elle juge de nature à contribuer de façon appréciable au développement industriel de l'île du Cap-Breton;

d) prendre ou détenir des hypothèques, privilèges ou sûretés pour garantir le paiement total ou partiel du prix de vente des immeubles qu'elle aliène et céder ces hypothèques, privilèges ou sûretés;

e) faire de la publicité sur les possibilités industrielles de l'île du Cap-Breton tant au Canada qu'à l'étranger, publier et diffuser de la documentation, accorder des prix et des récompenses, faire des dons et des contributions en vue d'encourager efficacement le développement industriel et économique de l'île;

f) prendre toutes les autres mesures qu'elle estime utiles à la réalisation de cette mission.

grant prizes and awards for and make donations and contributions to the effective promotion of the industrial and economic development of the Island; and

(*f*) do all such other things as the Corporation deems incidental or conducive to the attainment of its objects.

Cooperation

(2) The Corporation shall, to the greatest possible extent consistent with the performance of its duties under this Act, consult and cooperate, either directly or, if a comittee to coordinate economic development activities on Cape Breton Island is established pursuant to any agreement in that behalf between the Governments of Canada and Nova Scotia, through that committee, with all departments, branches and agencies of the Governments of Canada and Nova Scotia having duties related to or having aims or objects related to those of the Corporation, and shall not undertake any action in relation to such objects if that action can be more appropriately carried out under any other assistance program or can reasonably be carried out without the assistance of the Corporation.

Collaboration

(2) La Société est tenue, dans toute la mesure compatible avec l'accomplissement de sa mission, de procéder à des consultations et de collaborer, directement ou par l'intermédiaire du comité coordonnateur des initiatives de développement économique de l'île du Cap-Breton éventuellement créé aux termes d'un accord entre les gouvernements du Canada et de la Nouvelle-Écosse, avec les ministères ou organismes de ces gouvernements ayant une mission comparable à la sienne; elle doit toutefois éviter de prendre à cet égard des mesures qui relèveraient plutôt d'un autre programme d'assistance ou qui pourraient être normalement prises sans son aide.

Directions

(3) The Corporation shall comply with any directions from time to time given to it by the Minister respecting the exercise of its powers.

Instructions

(3) La société se conforme aux instructions que lui donne le ministre quant à l'exercice de ses pouvoirs.

Applicable provisions

(4) Subsections 99(2) to (6) and section 154 of the *Financial Administration Act* apply, with such modifications as the circumstances require, to a direction given under subsection (3) as though it were a directive referred to in those provisions.

Dispositions applicables

(4) Les paragraphes 99(2) à (6) et l'article 154 de la *Loi sur l'administration financière* s'appliquent, compte tenu des adaptations de circonstance, aux instructions visées au paragraphe (3) comme s'il s'agissait des instructions qu'ils mentionnent.

FINANCIAL PROVISIONS

DISPOSITIONS FINANCIÈRES

Payments by Minister of Finance

11. (1) The Minister of Finance shall, out of the Consolidated Revenue Fund, on the requisition of the Corporation and the Minister, in accordance with approved budgets of the Corporation, cause to be paid to the Corporation from time to time as required by it such amounts as may from time to time be appropriated by Parliament therefor.

Paiements par le ministre des Finances

11. (1) Sur demande du ministre et de la Société, le ministre des Finances fait verser à celle-ci sur le Trésor, conformément aux autorisations budgétaires la concernant et au fur et à mesure de ses besoins, les crédits qui peuvent être affectés à cette fin par le Parlement.

Aggregate of guarantees and payments thereon

(2) The aggregate amount outstanding of guarantees given by the Corporation pursuant to paragraph 10(1)(*a*) shall not at any

Plafond des garanties

(2) Le total des garanties accordées par la Société aux termes de l'alinéa 10(1)*a*) ne peut à aucun moment dépasser cent millions

time exceed one hundred million dollars, and any amount required to be paid by the terms of any such guarantee may be paid pursuant to section 22 of the *Financial Administration Act* and shall not be included in computing the aggregate of payments made to the Corporation pursuant to subsection (1).

de dollars; les montants à débourser au titre de ces garanties peuvent être versés conformément à l'article 22 de la *Loi sur l'administration financière* et ne sont pas pris en compte dans le calcul du total des versements prévus au paragraphe (1).

Administration of funds

12. (1) All moneys received by the Corporation through the conduct of its operations or otherwise on behalf of or to its credit, including moneys received by the Corporation from Her Majesty in right of Nova Scotia, whether pursuant to an agreement in that behalf between the Governments of Canada and Nova Scotia or otherwise, from an agency of Her Majesty in right of Nova Scotia or from any other person, shall be deposited to the credit of accounts of the Corporation and, subject to the terms, if any, upon which they were received, shall be administered and expended by the Corporation exclusively in the exercise and peformance of the powers, duties and functions of the Corporation.

12. (1) Les montants reçus par la Société et provenant de ses activités ou d'une autre source, pour son propre compte ou à son crédit, y compris ceux reçus de Sa Majesté du chef de la Nouvelle-Écosse, aux termes d'un accord conclu entre les gouvernements du Canada et de la Nouvelle-Écosse ou autrement, d'un organisme de Sa Majesté du chef de la Nouvelle-Écosse ou de toute autre source, sont déposés au crédit des comptes de la Société et, sous réserve des éventuelles conditions auxquelles ils ont été reçus, sont gérés et dépensés par la Société exclusivement dans l'exercice de ses attributions.

Gestion des fonds

Investments

(2) The Corporation may invest any moneys administered by it pursuant to this section in obligations of or guaranteed by the Government of Canada.

(2) La Société peut placer les fonds qu'elle gère conformément au présent article dans des obligations émises ou garanties par le gouvernement du Canada.

Placements

Books of account

(3) The Corporation shall keep proper books of account and records related thereto.

(3) La Société tient les livres de comptes et documents appropriés.

Livres de comptes

Information on guarantees

13. Each capital budget submitted by the Corporation pursuant to section 131 of the *Financial Administration Act* shall include such information regarding any guarantees that the Corporation proposes to give pursuant to paragraph 10(1)(*a*) during the fiscal year to which such budget relates as the Minister may from time to time require.

13. Chaque budget d'investissement présenté par la Société conformément à l'article 131 de la *Loi sur l'administration financière* doit comporter les renseignements que peut exiger le ministre au fur et à mesure des besoins sur les garanties que la Société se propose d'accorder aux termes de l'alinéa 10(1)*a*) au cours de l'exercice auquel se rapporte le budget.

Renseignements sur les garanties

GENERAL

DISPOSITIONS GÉNÉRALES

Head office and meetings

14. The head office of the Corporation shall be at Sydney, Nova Scotia, but meetings of the Board may be held in such other places in Atlantic Canada as the directors may decide.

14. Le siège de la Société est fixé à Sydney, en Nouvelle-Écosse; les réunions du conseil peuvent toutefois se tenir ailleurs au Canada atlantique, au choix des administrateurs.

Siège et réunions

By-laws

15. The Board may make by-laws

15. Le conseil peut, par règlement administratif, régir :

Règlements administratifs

(*a*) respecting the calling of meetings of the Board;

(*b*) respecting the conduct of business at meetings of the Board and the establishment of committees thereof, the delegation of duties to such committees and the fixing of quorums for meetings of the Board and committees thereof;

(*c*) fixing the travel and living expenses to be paid to directors other than the President;

(*d*) respecting the duties and conduct of the directors, officers and employees of the Corporation and the terms and conditions of employment of officers and employees of the Corporation;

(*e*) respecting the establishment, management and administration of a pension fund for the Vice-President, the officers and employees of the Corporation and dependants of those persons, the contributions thereto to be made by the Corporation and the investment of the pension fund moneys thereof; and

(*f*) generally for the conduct and management of the affairs of the Corporation.

a) la convocation de ses réunions;

b) le déroulement de ses réunions, la création de comités en son sein, la délégation d'attributions à ces comités et la fixation du quorum à ses réunions et à celles des comités;

c) les indemnités à verser aux administrateurs, à l'exception du président, pour leurs frais de déplacement et de séjour;

d) les responsabilités professionnelles et morales des administrateurs et du personnel, ainsi que les conditions d'emploi de celui-ci;

e) la création et la gestion d'une caisse de retraite pour le vice-président et le personnel de la Société ainsi que les personnes à leur charge, les cotisations à verser par la Société à cette caisse et le placement des fonds de la caisse;

f) de façon générale, le fonctionnement de la Société.

Agent of Her Majesty

16. Except as provided in subsection 17(1), the Corporation is, for all purposes of this Act, an agent of Her Majesty in right of Canada.

Mandataire de Sa Majesté

16. Sauf exception prévue au paragraphe 17(1), la Société est, pour l'application de la présente loi, mandataire de Sa Majesté du chef du Canada.

Persons employed not servants of Her Majesty

17. (1) Persons employed by the Corporation pursuant to subsection 8(1) are not officers or servants of Her Majesty.

Cas du personnel

17. (1) Les personnes employées par la Société conformément au paragraphe 8(1) ne sont pas des préposés de Sa Majesté.

Application of Flying Accidents Compensation Order

(2) For the purpose of any regulation made pursuant to section 7.7 of the *Aeronautics Act*, the officers and employees of the Corporation shall be deemed to be employees in the public service of Canada.

Indemnisation des victimes d'accidents d'aviation

(2) Pour l'application des règlements pris aux termes de l'article 7.7 de la *Loi sur l'aéronautique*, le personnel de la Société est réputé appartenir à l'administration publique fédérale.

Payments in lieu of taxes

18. (1) The Corporation may make grants in lieu of taxes to any municipality on the Island of Cape Breton not exceeding the taxes that might be levied by the municipality on the Corporation if the Corporation were not an agent of Her Majesty.

Paiements tenant lieu d'impôts

18. (1) La Société peut accorder à toute municipalité de l'île du Cap-Breton des subventions tenant lieu et à concurrence des impôts dont elle est exemptée en sa qualité de mandataire de Sa Majesté.

General expenditures

(2) All expenditures of the Corporation for the payment of which no other provision is made by this Act shall be paid out of moneys appropriated by Parliament therefor.

Dépenses générales

(2) Les dépenses de la Société dont le paiement n'est pas prévu par la présente loi sont payées sur les crédits que le Parlement affecte à cette fin.

Annual report

19. The Corporation shall submit a copy of each annual report of the Corporation prepared in accordance with section 152 of the *Financial Administration Act* to the Lieutenant Governor in Council of Nova Scotia.

Rapport annuel

19. La Société remet un exemplaire de chacun des rapports annuels qu'elle établit en conformité avec l'article 152 de la *Loi sur l'administration financière* au lieutenant-gouverneur en conseil de la Nouvelle-Écosse.

TRANSITIONAL

DISPOSITIONS TRANSITOIRES

Continuation

20. (1) The *Cape Breton Development Corporation Act* and sections 3 to 19 of this Act shall be construed as if the Industrial Development Division of the Cape Breton Development Corporation were a separate corporation, in this section referred to as the "continued corporation", continued as the Enterprise Cape Breton Corporation, in this section referred to as the "new corporation", established by section 3 of this Act.

Continuité

20. (1) Dans la *Loi sur la Société de développement du Cap-Breton* et aux articles 3 à 19 de la présente loi, la Division du développement industriel de la Société de développement du Cap-Breton est à considérer comme une société distincte — ci-après dénommée la Division — dont la continuité est assurée par la Société d'expansion du Cap-Breton constituée par l'article 3 de la présente loi et ci-après dénommée la Société.

Directors and officers

(2) For the purposes of this section, the members of the Board of Directors of the continued corporation shall be deemed to have resigned immediately before the corporation was continued, and the President of the Cape Breton Development Corporation shall be deemed not to have been an officer or director of the continued corporation.

Administrateurs et dirigeants

(2) Pour l'application du présent article, les administrateurs de la Division sont considérés comme démissionnaires dès la constitution de la Société et le président de la Société de développement du Cap-Breton est réputé ne pas avoir été administrateur ou dirigeant de la Division.

By-laws

(3) The by-laws of the Cape Breton Development Corporation that are in force on the coming into force of this section shall, to the extent they are applicable, be deemed to have been the by-laws of the continued corporation but those by-laws shall cease to have effect as the by-laws of the new corporation sixty days after the coming into force of this section.

Règlements administratifs

(3) Les règlements administratifs de la Société de développement du Cap-Breton, encore applicables à la date d'entrée en vigueur du présent article, sont réputés avoir été pris par la Division mais ils cessent d'avoir effet, comme règlements administratifs de la Société, soixante jours après cette date.

Directions

(4) The President of the Treasury Board, the Minister and the Minister responsible for Cape Breton Development Corporation may, by order, give such directions as they deem necessary to give effect to the intent of this section, and any such directions have the force of law.

Instructions

(4) Le ministre, le président du Conseil du Trésor et le ministre responsable de la Société de développement du Cap-Breton peuvent, par arrêté, donner les instructions qu'ils jugent nécessaires à la mise en application du présent article. Ces instructions ont force de loi.

Transfer of property

(5) For greater certainty, the administration and control of all property that, on the coming into force of this section, is held by or leased to the Cape Breton Development Corporation for the use or benefit of the continued corporation are transferred to the new corporation.

Transfert de propriété

(5) Il est entendu que la gestion et le contrôle des biens qui, lors de l'entrée en vigueur du présent article, sont détenus par la Société de développement du Cap-Breton ou loués à celle-ci, pour l'avantage ou l'usage de la Division, sont transférés à la Société.

Certain provisions not to apply

(6) Section 100, 101 and 108 of the *Financial Administration Act* do not apply in respect of any transfer of assets, including shares, from the Cape Breton Development Corporation to the new corporation under or pursuant to this Act, and section 101 of that Act does not apply in respect of any acquisition by the new corporation of those assets.

Dispositions non applicables

(6) Les articles 100, 101 et 108 de la *Loi sur l'administration financière* ne s'appliquent pas au transfert d'actifs, y compris les actions, de la Société de développement du Cap-Breton à la Société effectué conformément à la présente loi, et l'article 101 de cette loi ne s'applique pas à l'acquisition de ces actifs par la Société.

CONSEQUENTIAL AND RELATED AMENDMENTS

MODIFICATIONS CORRÉLATIVES ET CONNEXES

R.S., c. C-13

Cape Breton Development Corporation Act

S.R., ch. C-13

Loi sur la Société de développement du Cap-Breton

21. The definition "Industrial Development Division" in section 2 of the *Cape Breton Development Corporation Act* is repealed.

21. La définition de «Division du développement industriel», à l'article 2 de la *Loi sur la Société de développement du Cap-Breton*, est abrogée.

22. (1) Subsections 8(1) and (2) of the said Act are repealed and the following substituted therefor:

22. (1) Les paragraphes 8(1) et (2) de la même loi sont abrogés et remplacés par ce qui suit :

Division of the Corporation

"**8.** (1) There shall be established within the Corporation for the more efficient management and conduct of the activities thereof, a division of the Corporation to be known as the Coal Division, which shall be under the management of a vice-president of the Corporation to be appointed in the manner provided in subsection (2) and such other divisions, if any, as the Board deems appropriate.

Division de la Société

«**8.** (1) Est constituée, au sein de la Société, pour en faciliter la gestion et en accroître l'efficacité, une division appelée «division des charbonnages», placée sous l'autorité du vice-président de la Société. Il peut, à cette fin, être constitué d'autres divisions lorsque le conseil le juge indiqué.

Vice-president

(2) The Board, on the recommendation of the President, shall appoint a vice-president of the Corporation who shall be responsible to the President for the management of the Coal Division."

Vice-président

(2) Le vice-président visé au paragraphe (1) est nommé par le conseil, sur recommandation du président, et doit rendre compte à celui-ci de la gestion de sa division.»

(2) Subsections 8(4) and (5) of the said Act are repealed and the following substituted therefor:

(2) Les paragraphes 8(4) et (5) de la même loi sont abrogés et remplacés par ce qui suit :

Remuneration and terms and conditions of employment

"(4) The vice-president of the Corporation appointed pursuant to subsection (2) and the persons employed pursuant to subsection (3) shall be paid by the Corporation such remuneration as is fixed or provided for by the Board and shall be employed on such terms and conditions as are fixed or provided for by by-law of the Corporation.

Rémunération et conditions d'emploi

«(4) La rémunération du vice-président visé au paragraphe (2) et du personnel visé au paragraphe (3) est fixée par le conseil et versée par la Société. Leurs autres conditions d'emploi sont fixées par règlement administratif de la Société.

Attendance of vice-president at meetings

(5) The vice-president appointed pursuant to subsection (2) may attend any meetings of the Board or of a committee thereof."

(5) Le vice-président visé au paragraphe (2) peut assister à toutes les réunions du conseil et d'un comité de celui-ci.»

Présence du vice-président aux réunions

c. 7(1st Supp.), ss. 1, 2; 1984, c. 31, s. 14, (Sch. II, item 18(5))

23. The headings preceding section 22 and sections 22 to 25 of the said Act are repealed.

23. L'intertitre qui précède l'article 22 et les articles 22 à 25 de la même loi sont abrogés.

ch. 7 (1er suppl.), art. 1, 2; 1984, ch. 31, art. 14, ann. II, par. 18(5)

c. 7(1st Supp.), s. 3

24. Subsection 26(2) of the said Act is repealed.

24. Le paragraphe 26(2) de la même loi est abrogé.

ch. 7 (1er suppl.), art. 3

1984, c. 31, s. 14 (Sch. II, item 18(11))

25. Subsection 33(2) of the said Act is repealed.

25. Le paragraphe 33(2) de la même loi est abrogé.

1984, ch. 31, art. 14, ann. II, par. 18(11)

R.S., c. F-10

Financial Administration Act

Loi sur l'administration financière

S.R., ch. F-10

1984, c. 31, s. 13

26. Part I of Schedule C to the *Financial Administration Act* is amended by adding thereto, in alphabetical order, the following:

"Enterprise Cape Breton Corporation
Société d'expansion du Cap Breton"

26. La partie I de l'annexe C de la *Loi sur l'administration financière* est modifiée par adjonction de ce qui suit :

«Société d'Expansion du Cap-Breton
Enterprise Cape Breton Corporation»

1984, ch. 31, art. 13

COMING INTO FORCE

ENTRÉE EN VIGUEUR

Coming into force

27. This Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council.

27. La présente loi ou telle de ses dispositions entre en vigueur à la date ou aux dates fixées par décret du gouverneur en conseil.

Entrée en vigueur

THE SENATE

Tuesday, July 12, 1988

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

Prayers.

[*Translation*]

EMERGENCIES BILL

MESSAGE FROM COMMONS

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, without further amendments, to the amendments made by the Senate to Bill C-77, to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof.

[*English*]

CRIMINAL CODE
FOOD AND DRUGS ACT
NARCOTIC CONTROL 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-61, to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act.

Bill read first time.

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

Hon. Nathan Nurgitz: 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.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, with respect to the question of leave on these bills—and I say "these bills" because I hope the Senate will give me leave to mention that there are, in all, coming from the House of Commons today, Bill C-61, Bill C-124, Bill C-75 and Bill C-58. The Deputy Leader of the Government and I discussed the anticipated legislative program for this week and we understand—although not officially—that the House of Commons will be sending us a fair amount of legislation this week and that the house leaders in the other place are attempting to complete their work on the other side before adjournment, either this week or early next week.

That, of course, will mean the adoption in the other place of quite a lengthy and important menu of legislation, and we in the Senate will try to deal with and have ready for Royal Assent as much of that menu as it is reasonable to expect from us. However, I believe that the Deputy Leader of the Government and I are agreed that it is impossible for us to have the total program ready for Royal Assent or otherwise dealt with in such a short time. Therefore, he and I have agreed that this week we will try to abridge the time for debate to see if we can at least help the government with legislation that—famous last words!—is non-controversial.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Frith is quite correct. We did have a discussion this morning. It is our hope to move along as much of this legislation as we reasonably can. I agree that some bills are perhaps more controversial than they appeared to be at the beginning—

Senator Frith: And more meaty!

Senator Doody: —but that will evolve as we go along. Therefore, without making any major commitment on either side at this point, it is our hope to move the legislative program that we now have before us fairly quickly, and as additional legislation comes up from the other place we will look at it and judge it on its merits.

At this point I can see no reason why we cannot hope for a speedy disposition of the legislation before us, and I hope that everything else that comes up can be treated equally quickly.

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

Hon. Senators: Agreed.

Motion agreed to and bill placed on the Orders of the Day for second reading later this day.

[*Translation*]

CANADA LABOUR CODE

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-124, an Act to amend the Canada Labour Code.

Bill read first time.

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

On motion of Senator Doody, notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

[*English*]

CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-75, to implement an agreement between the Government of Canada and the Government of Nova Scotia on offshore petroleum resource management and revenue sharing and to make related and consequential amendments.

Bill read first time.

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

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

[*Translation*]

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL

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 provide for the implementation of treaties for mutual legal assistance in criminal matters and to amend the Criminal Code, the Crown Liability Act and the Immigration Act, 1976.

Bill read first time.

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

On motion of Senator Doody, notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-FIRST REPORT OF COMMITTEE PRESENTED

Hon. Royce Frith, Deputy Chairman of the Standing Senate Committee on Internal Economy, Budgets and Administration, presented the following report:

July 12, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTY-FIRST REPORT

Your Committee recommends for approval the collective agreement negotiated by the Senate with respect to its operational group of employees.

Respectfully submitted,

ROYCE FRITH
Deputy Chairman

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

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

[*English*]

CHILD CARE

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ON FINAL REPORT OF SPECIAL HOUSE OF COMMONS COMMITTEE ON CHILD CARE ENTITLED "SHARING THE RESPONSIBILITY" TABLED

Hon. M. Lorne Bonnell: Honourable senators, I have the honour to table the eighteenth report of the Standing Senate Committee on Social Affairs, Science and Technology respecting child care.

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

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have no problem with the report; it is just that I should like to know whether it is our standard procedure now to print all the reports in the *Minutes of the Proceedings* and in *Hansard*. My understanding is that the report will be printed and distributed to honourable senators. We had a situation a few days ago when a senator presented a report concerning a parliamentary visit and it was printed in the *Minutes of the Proceedings* and in *Hansard*. It was also distributed to each senator.

I feel that it is uneconomical and redundant for a report to be printed so many times. Perhaps we could come to an agreement to have a single printing.

Senator Bonnell: Honourable senators, I tend to agree with Senator Doody. I have watched this procedure for several years and I believe that if we print the report only once the savings will be worthwhile. Therefore, I would be prepared to amend my motion. I ask that the report be printed as an appendix only to the *Debates of the Senate*.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see appendix, p. 3933.*)

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

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

NATIONAL HOUSING ACT
CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. M. Lorne Bonnell, Deputy Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, July 12, 1988

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

NINETEENTH REPORT

Your Committee, to which was referred Bill C-111, An Act to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to repeal certain enactments in consequence thereof, has, in obedience to the Order of Reference of Thursday, July 7, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

M. LORNE BONNELL
Deputy Chairman

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that this bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

The Hon. the Speaker: Honourable senators, it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Rossiter, that this bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

• (1410)

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have a procedural nit. The motion should be by Senator Rossiter. I do not mean that is precisely what took place. However, according to the rules, the motion should be made by the senator sponsoring the bill.

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

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Joan B. Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, July 12, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-FOURTH REPORT

Your Committee, to which was referred Bill C-89, an Act to amend the Criminal Code (victims of crime), has, in obedience to the Order of Reference of Wednesday, May 18, 1988, examined the said Bill and now reports the same without amendment, but with the following comments and one recommendation.

The Committee has held hearings and has heard from a number of witnesses.

The Committee wishes to express its concerns about two elements of the Bill: the extension of the mandatory ban on publication of the identity of complainants in both extortion and loansharking offences; and the lack of a provision for appeal of an order of imprisonment in default of restitution.

In general, the Committee believes that bans on publication in criminal cases should be made by the courts on a case-by-case basis. We recognize the need for a mandatory ban in exceptional cases. This was why we agreed to the provision in relation to sexual offences against children. Even in that instance we gave the question careful consideration. A mandatory ban is a drastic curtailment of freedom of the press, and should be used sparingly. We are not convinced that extortion and loansharking are offences for which an exception should be made.

However, the Supreme Court of Canada has heard argument and will soon be announcing its decision in the *Canadian Newspaper Co. Ltd.* case dealing with the validity of a mandatory publication ban in light of the *Canadian Charter of Rights and Freedoms*. In view of this forthcoming decision, the Committee has decided to hold its objections in abeyance. We expect the Court to give guidance as to the extent to which the state is justified in limiting the freedom of the press.

With respect to the absence of an appeal from an order of imprisonment in default of payment of restitution, our concern is that offenders not be sent to jail without all the safeguards the criminal justice system can provide.

In response to our concerns, government officials have stated that imprisonment in default of payment of restitution is not intended to apply to offenders who cannot pay. Rather, it is an enforcement method of last resort. Although they pointed to safeguards in the Bill and advanced strong arguments to support their contention, the Committee nonetheless has continuing concerns with the lack of appeal in relation to a proceeding that may result in imprisonment for non-payment of restitution, perhaps years after the offence. The existence of other safeguards including judicial review is significant but an appeal mechanism would have been preferable.

The Committee has often expressed the view that it is essential for the government to implement systems to monitor the impact and evaluate the effectiveness of any new measures affecting the criminal justice system. The Committee regrets that in response to its questions it has again been advised that the idea is still under study.

The Committee strongly recommends that the government take immediate action, in conjunction with provincial and territorial authorities, to put in place a system of data collection that will provide statistics not only on the impact and effectiveness of the new measures contained in Bill C-89 but also on other recently created criminal offences and their corresponding sanctions.

Respectfully submitted,

JOAN NEIMAN
Chairman

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

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

[*English*]

OFFICIAL LANGUAGES BILL C-72

NOTICE OF MOTION FOR APPOINTMENT OF SPECIAL SENATE COMMITTEE

Hon. Dalia Wood: Honourable senators, I give notice that on Thursday next, July 14, 1988, I will move:

That a special committee of the Senate be appointed to consider, after second reading, the Bill C-72, An Act respecting the status and use of the official languages of Canada;

That, notwithstanding Rule 66(1)(*b*), the special committee be composed of the Honourable Senators Bonnell, Cools, Cottreau, David, De Bané, Guay, Ottenheimer, Robichaud, Tremblay and Wood;

That the quorum of the special committee be four members; and

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

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is not here today. I would be pleased to take as notice any questions that honourable senators might wish to ask.

CANADA-UNITED STATES FREE TRADE AGREEMENT

JOB CREATION—BASIS OF PREDICTION

Hon. Philippe Deane Gigantès: Honourable senators, I would be grateful to Senator Doody if he could inquire and let me know on the basis of precisely which studies the government has predicted the creation of 251,193 jobs as a result of the Free Trade Agreement. These are new net jobs by December 31, 1998. I would be grateful if the senator could let me have the answer at his earliest convenience.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I will make an inquiry.

Senator Gigantès: Thank you.

• (1420)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have four delayed answers. The first is in response to a question asked by the Honourable M. Lorne Bonnell on June 7, 1988, regarding Transport—Prince Edward Island—Consultations on Design of Ferry—Relocation of Terminal. The second is in response to a question asked by Senator Molgat on June 7, 1988, regarding Fur Industry—Proposed British Labelling of Canadian Products—Government Action. The third is in response to a question asked on June 14, 1988, by Senator Bonnell regarding National Defence—Spraying of Poisonous Nerve Gases. And the fourth is in response to a question asked by Senator Olson on July 6, 1988, regarding Agriculture—Alberta—Drought Relief Program—Signing of Agreement.

If honourable senators agree, I ask that these answers be printed as part of today's proceedings.

Hon. Senators: Agreed.

Hon. M. Lorne Bonnell: Honourable senators, I wonder if the Deputy Leader of the Government in the Senate could read the one regarding transportation and Prince Edward Island. I think all of Canada would like to know about that.

Senator Doody: I certainly would not want to keep all of Canada in suspense.

TRANSPORT

PRINCE EDWARD ISLAND—CONSULTATIONS ON DESIGN OF FERRY—RELOCATION OF TERMINAL

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is in response to a question asked by the Honourable M. Lorne Bonnell on June 7, 1988, regarding Transport—Prince Edward Island—Consultations

on Design of Ferry—Relocation of Terminal. The answer reads as follows:

> The necessity for a new ferry and terminal redevelopment came from the Prince Edward Island-Mainland Study of the mid-1970's, updated in 1986. Both the Province of Prince Edward Island and Northumberland Ferries Limited have been fully consulted. At the present time, there is a conceptual design for the ferry, which will be developed by naval architects, to ensure stability and safety criteria are met.
>
> Relocation of the terminals was considered but rejected, due to the very high cost of both terminal and highway construction required.
>
> During the summer, there is a ferry at intervals of approximately 50 minutes.

Senator Bonnell: Honourable senators, I wonder if the Deputy Leader of the Government would find out if that answer means that they are not going to take the opportunity now to build that new terminal for the new double-decker ferry so that people will not have to pass through that narrow and shallow channel, so that the time taken to make that trip is shortened, and so that the people of eastern Prince Edward Island will have winter service as well as summer service, and that they will use the ferries which will be scrapped after the fixed link is constructed for use on the eastern end of the island at this new terminal and start immediately to build a new ferry at some shipyard, and not hold up this ferry construction. Can the leader find that out as well?

Senator Doody: Honourable senators, I will certainly pass that along. My memory tells me that I just read an answer to the effect that the idea of relocating the terminal had been rejected. Nevertheless, I will pass along the honourable senator's comments for further consideration.

Senator Bonnell: Maybe we should reject the people who made that decision.

FUR INDUSTRY

PROPOSED BRITISH LABELLING OF CANADIAN PRODUCTS—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 7, 1988, by the Honourable Gildas L. Molgat, regarding the Fur Industry—Proposed British Labelling of Canadian Products—Government Action.

(*The answer follows:*)

> As a matter of policy there is no linkage between the submarine procurement issue and the British fur labelling question. Each issue is considered on its own merit and action taken accordingly. However it is also true that we cannot fail to recognize the negative impact which any affirmative labelling decision could have had on Canada's native communities and others associated with fur. Indeed the threat to the native communities was undoubtedly one of the considerations taken into account by the British Government in withdrawing the regulation on June 16. We feel that the very welcome British decision was also a testimonial to the admirably coordinated efforts by the government, indigenous and other fur support groups in making known their concerns and interests.

NATIONAL DEFENCE

SPRAYING OF POISONOUS NERVE GASES

Hon C. William Doody (Deputy Leader of the Government): Honourable senators I have a delayed answer in response to a question asked in the Senate on June 14, 1988, by the Hon. M. Lorne Bonnell, regarding National Defence—Spraying of Poisonous Nerve Gases.

(*The answer follows:*)

> The testing of live chemical agents at the Defence Research Establishment Suffield is subject to strict safety procedures. Before a test occurs weather forecast details are sought from experts on site, and only when conditions are suitable would a test take place. Notification of a test is given to all personnel in the CFB Suffield area. A trained medical person is on site and the local Medical Inspection Facility is put on notice.
>
> The testing of live agents is not a regular occurrence and is intended primarily for the development of protective clothing and equipment for the Canadian Forces. The test site is located at CFB Suffield and occupies an area of approximately 12 square kilometers of the 2,700 square kilometer Base and is located at least 7 kilometers from a public road.

AGRICULTURE

ALBERTA—DROUGHT RELIEF PROGRAM—SIGNING OF AGREEMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on July 6, 1988, by the Hon. H.A. Olson, regarding Agriculture—Alberta—Drought Relief Program—Signing of Agreement.

(*The answer follows:*)

> The Minister of Agriculture for the Province of Alberta, Mr. Peter Elzinga, announced on July 6, a $31.5 million contribution towards drought assistance.
>
> The $31.5 million drought assistance program represents Alberta's contribution to the federal-provincial cost sharing initiative announced June 30 by federal Agriculture Minister John Wise.

OFFICIAL LANGUAGES BILL

SECOND READING—ORDER STANDS

On the Order:

Second reading of the Bill C-72, An Act respecting the status and use of the official languages of Canada.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, could that order stand in the name of Senator Murray? He has asked that he be given the right to speak on this order tomorrow.

Hon. Royce Frith (Deputy Leader of the Opposition): Agreed.

Order stands in name of Senator Murray.

CRIMINAL CODE
FOOD AND DRUGS ACT
NARCOTIC CONTROL ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Nathan Nurgitz moved the second reading of Bill C-61, to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act.

He said: Honourable senators, having moved second reading, I should like to explain that the purpose of this legislation is to strike at the profits generated by certain types of criminal offences. The legislation will do this by providing law enforcement agencies with the necessary powers to investigate, freeze and seize the proceeds of certain crimes and by providing the courts with the powers to confiscate the proceeds of these crimes.

It is an initiative that is both firm and fair. The need to deal appropriately with this growing problem has been tempered with the requirement to insure that the fundamental principles of due process are maintained throughout the entire forfeiture process. It is obvious that these measures are sensitive to all of the protections of our criminal justice system, including the developing principles of the Canadian Charter of Rights and Freedoms.

First I wish to comment on the "proceeds of crime" initiative in the international context. In relation to the growing world tragedy of drug abuse, the United Nations has recognized the need to approach the problem on a global level. It is apparent that drug traffickers ignore international borders and the reality of drug abuse will continue to flourish and grow unless all the nations of the world confront it with appropriate criminal sanctions.

In response to this, the United Nations is presently in the process of developing a draft Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. I, for one, would expect Canada to continue to show leadership in this area by means of a firm commitment to the proposals of that Convention.

In recognition of the fundamental need to prevent and repress the acquisition and laundering of the proceeds of illicit traffic in drugs, the principal undertaking of participating nations is to adopt legislative measures to facilitate the identification, tracing, freezing, seizing and forfeiture of such proceeds. It is clear, therefore, that Canada has anticipated her commitment to the international community of nations with the presentation of this legislation.

I trust honourable senators will allow Canada to join the other members of the United Nations in this important endeavour by allowing the proceeds of crime proposal expeditious passage into law. In addition, this legislation echoes the provisions of the draft convention by authorizing the pre-trial maintenance of the *status quo* by allowing for court-authorized freezing and seizure of the proceeds of crime. All of these elements of the legislation are reflective of the United Nations' model.

Similar comments apply to the provisions in the bill that create the inference from an unexplained increase in net worth, so that there will be certain procedures for the appointment of managers in conjunction with restraining orders; all of this to stop the fleeing of funds once criminals know they have been detected.

I note that the many built-in protections for third parties are also a feature of the draft convention as well as of this piece of legislation. I am pleased that this bill will enable Canada to assist the United Nations in the efforts that are being made to rid the world of the tragedy flowing from the abuse of drugs by striking out at the very lifeblood of these profiteers: their financial base.

Honourable senators, the communiqué of the 1986 meeting of Commonwealth Law Ministers held in Harare, Zimbabwe, last summer calls on member states to strengthen legal provisions to enable the proceeds of crime to be identified and forfeited, especially in light of the growth of drug abuse and illicit drug trafficking. That communiqué went on to note the concern that these drug trafficking empires posed to the social fabric and security of many countries. One only has to look at the situation in Colombia, where a criminal organization such as the Medillan Cartel, through its involvement and virtual control of the North American cocaine market, is able to function freely, bringing the judiciary, the police and the democratic process to their knees by acts of terrorism and murder. Democracy cannot survive in the face of the strength of such empires based on the trafficking of drugs.

In any event, I note that this bill is consistent with the resolve that has been established in the Commonwealth of Nations to deal appropriately with the international problem of traffic in drugs. We owe this much to the developing nations of the Third World.

• (1430)

With the presentation of this legislation, Canada now joins the list of western democracies to implement a procedure for the confiscation of the proceeds of crime. The most obvious example that we can think of is the RICO or Racketeer Influenced and Corrupt Organizations Statutes in the United States of America. I note that, although this Canadian proposal has the same objective in mind as the American legislation, that is, the elimination of criminal profiteering, it does so in a uniquely "Made in Canada" fashion: the proceeds of crimes—and only the proceeds of crime—will be forfeited

under our legislation rather than entire interests in enterprises that may have only a minimal connection with criminal activity. In the Canadian context, the sanction of forfeiture will be proportional to the criminal involvement. Also, the proposal does not target instruments of crime, which can be an unfair application. I believe honourable senators will be impressed by the balance, as well as the firmness, of these measures.

The United Kingdom has recently passed legislation to deal with the problem of the proceeds of crime. In the drug area, the Drug Trafficking Offences Act, 1986 was proclaimed in force in January of 1987. It includes many measures that are similar to this legislation. In particular, it provides for a form of pre-trial seizure of the proceeds of crime. This element of pre-trial restraint appears to be a fundamental feature of proceeds of crime legislation in all countries, including the United States and the United Kingdom. The collective opinion is that it is necessary, like pre-trial detention, in order to make the forfeiture provisions effective.

I note, returning to the situation in England, that they have a provision that is similar, to some extent, to the proposal in our legislation—to allow for the imposition of an alternative fine as a substitute for the proceeds of crime that have been placed out of reach of the authorities. The British experience must be similar to the Canadian one to foresee the need to create this incentive in the minds of enterprise criminals to make their proceeds of crime available to the courts for forfeiture.

When we look at Australia, there are proceeds of crime forfeiture statutes in virtually all of the states and at the federal level. All of them have the same fundamental features that the Canadian proposal will have, including pre-trial restraint of the proceeds of crime. When one looks at the New South Wales legislation, one will see that it too provides for the confiscation of the proceeds of crime of an absconding offender. That feature is found in our bill as well.

In closing, I do not think that anyone would argue against the suggestion that each one of these countries that already have proceeds of crime legislation is, to use words from the opening paragraph of our Charter of Rights and Freedoms, a "free and democratic society." That is obvious. They have all seen fit to attempt to limit the growth of enterprise crime by confiscating its profits from the hands of the criminal.

I trust that all honourable senators will approach this legislation with the same unanimity as the members of the British Parliament did in granting speedy passage to their Drug Trafficking Offences Act, 1986. Not only would this show our maturity as a nation but it would, we hope, be noted by the criminal element that Canada treats the proceeds of crime as seriously as do other nations of the world.

Honourable senators, this bill was passed Thursday last, July 7, in the House of Commons, on division. The New Democratic Party expressed some concern, and no one from the Liberal side spoke on it. However, I should mention that the Liberal Justice critic, Mr. Kaplan, spoke on second reading, I might say endorsing the entire bill and urging quick passage of the bill. Honourable senators, I ask you to support this bill, and I trust it will, after short consideration, be sent to the Standing Senate Committee on Legal and Constitutional Affairs for further consideration.

On motion of Senator Stanbury, debate adjourned.

CANADA LABOUR CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Mira Spivak moved the second reading of Bill C-124, to amend the Canada Labour Code.

She said: Honourable senators, Bill C-124 amends Part IV of the Canada Labour Code.

Enterprises under federal jurisdiction, and to which the Canada Labour Code applies, include interprovincial or international works and undertakings such as railways, highways, transport, telephone, telegraph and cable systems, pipelines, canals, ferries, tunnels, bridges and shipping. As well, the Code applies to broadcasting, banking, air transport and some 40 crown corporations. Also included are industries declared by Parliament to be for the general advantage of Canada, such as grain elevators.

In addition, the occupational safety and health provisions of the Code apply to the federal public service, operating employees in the transportation industry and workers involved in the exploration and development of oil and gas in certain Canada lands. Therefore, over one million workers are covered by the Canada Labour Code's provisions on occupational safety and health.

The bill before us would make necessary changes to this legislation. These changes, while minor in themselves, will help make the Canada Labour Code a more flexible and efficient instrument for the protection of Canadian workers. The first of these changes is a series of amendments to Part IV of the Code, which have general application. The second relates only to the federally regulated coal mines in Cape Breton.

The objective of the proposed bill is to ensure consistency between the recently amended Part IV of the Canada Labour Code and the regulations made pursuant to the Code. One major intent of the Code amendments enacted in 1984 and proclaimed in 1986 was to clarify the prime responsibility of the employer for employees' occupational safety and health. The regulation-making authorities of the Code in this respect were therefore limited to precise standards which could be rigidly prescribed.

This approach has generally shown its merits. However, there can be a problem in some situations and environments in which some flexibility is required. The proposed amendments to the Code will address this problem by providing new or clearer authorities.

Honourable senators, I should now like to present these changes in logical order rather than clause by clause in order to explain more clearly the purpose of this bill and the thinking behind it.

First, I will deal with the amendments of general application. Clauses 4 and 5 of the bill will provide authority, pursuant to the proposed subsections 105(7), 106(1.1) and (1.2), to make regulations for circumstances or situations in which it is not possible to prescribe rigid standards.

As any experienced legislator knows, the law is an imperfect instrument, and it is sometimes impossible to make regulations, for instance, that cover every aspect of an engineering work or structure. Rather than attempting to do so through a legal text, the situation can be covered far better by a requirement that the work or structure be constructed "in accordance with good engineering practice." It is then possible for a professional engineer to certify that good engineering practice has been used. But this is not a prescribed standard, and such a requirement would not be permitted by the current authorities in the Code. The proposed amendment will permit such a requirement, but only where the Governor in Council deems it appropriate.

Authority is also required to permit regulations to be made applicable generally to all workplaces, or all classes of employment or, particularly, to one or more workplaces or one or more classes of employment, as may be specified in these regulations. To ensure that employees enjoy the protection offered by the most recent updated standards, authority is required to reference standards as amended from time to time. Authority is also required for use of the words "to the extent that it is practicable or reasonably practicable". This would cover situations where it would be unreasonable to prescribe one precise standard for all situations.

● (1440)

For instance, we cannot reasonably expect that buildings built before 1985 would meet all the requirements of the 1985 building code. A more appropriate regulation would require that all buildings will comply with the most recent building code to the extent that it is reasonably practicable.

Regarding clause 2 of the bill, the proposed amendment would authorize the provision in the regulations that requires an annual report on each safety and health committee's activities to be made in the prescribed form to a person designated by the regulation. This would permit Labour Canada to know whether the safety and health committees were performing their prescribed functions effectively or whether they might need assistance. Also, it would cut down on the paperwork that would be required if minutes were to be submitted constantly to Labour Canada.

I will now address the proposed amendments that refer only to federally-regulated coal mining in Cape Breton, Nova Scotia. Because of the special risks involved in working in the Cape Breton Development Corporation's coal mines in Nova Scotia, it is proposed to establish—in addition to the health and safety committees—a tripartite coal mining safety commission with the authority to review and approve plans, procedures, methods and equipment in order to ensure that there will be safety in the ever-changing mining environment.

[Senator Spivak]

In keeping with the goal of Bill C-124 of providing greater flexibility in the application of occupational safety and health regulations, the commission will also have the authority to vary, or exempt from, the application of regulations, or to substitute a different standard, where such actions will provide equal or better safety protection for the coal miners.

In reference to clause 3 of the bill, I note that the manner of establishment, selection and remuneration of commission members, as well as the powers and duties of the commission, are set out in the proposed sections 94.1 and 94.2 of the Code.

Referring to clause 1 of the bill, honourable senators will note that the proposed section 82.3 requires that the employer, the Cape Breton Development Corporation, shall comply with the conditions and provisions imposed by the commission under the authority of section 94.1.

In addition, it is proposed that, pursuant to section 82.3, the Code would provide authority for two long-standing practices: the first is the practice of permitting persons selected by the coal mining employees to inspect all workplaces in a mine to ensure that they are safe in all respects—that is, worker-inspectors. The second practice is that of searching persons going underground to ensure that none carry cigarettes, lighters, alcohol or drugs into the hazardous and potentially explosive mine atmosphere.

Finally, clause 6 of the bill proposes that, in order to ensure continuity of safe operation of the coal mines, pre-existing exemptions and approvals issued in the interests of safety remain in force. In other words, this is a transition clause.

Also, clause 7 of the bill proposes that the sections of this act to amend the Canada Labour Code would come into force at different times, particularly to permit time for the establishment of the coal mining safety commission and to avoid having to make certain provisions of the regulations again under the amended act.

As I mentioned earlier, honourable senators, these changes, though minor, are an important step in making the Canada Labour Code a more flexible and efficient instrument for the protection of Canadian workers.

Honourable senators, this bill was brought into the House of Commons through extensive consultation among all parties and it is my belief that it was supported by all political parties in the House of Commons. Therefore, I urge you to grant this bill expeditious passage.

On motion of Senator Marsden, debate adjourned.

CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Ethel Cochrane moved the second reading of Bill C-75, to implement an agreement between the Government of Canada and the Government of Nova Scotia on offshore petroleum resource management and revenue sharing and to make related and consequential amendments.

She said: Honourable senators, it is with great pleasure that I introduce to the Senate for second reading Bill C-75, to implement the Canada-Nova Scotia Offshore Petroleum Resources Accord.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before Senator Cochrane continues, I wonder if she can tell us just what the situation is with respect to copies of this bill. We have one copy marked "Reprinted as amended and reported June 8, 1988, by a legislative committee." I have another copy that Senator Cochrane was kind enough to give me that is marked "As passed by the House of Commons July 7, 1988."

Senator Cochrane: Honourable senators, I think Mr. Greene, the Clerk Assistant of the Senate, is about to provide us with the latest copy of this bill.

Hon. C. William Doody (Deputy Leader of the Government): I think that copies of the amendments to this bill are available to honourable senators and will be distributed shortly. However, I do not think we have printed copies of the bill as amended—the Clerk Assistant is nodding his head to me and saying that they are now available, so they will be distributed to honourable senators as quickly as possible.

Senator Frith: Which version will we then be referring to?

Senator Cochrane: Senator Frith, I have the copy dated July 7, 1988.

Senator Frith: That is the one to which you will be referring?

Senator Cochrane: Yes.

Senator Frith: Thank you.

Senator Cochrane: The Canada-Nova Scotia Offshore Petroleum Resources Accord was signed on August 26, 1986, by the Prime Minister, Brian Mulroney, and by the Premier of Nova Scotia, John Buchanan. The accord replaces and improves on the 1982 offshore agreement with Nova Scotia by bringing the province into full and equal partnership with the Government of Canada in the sharing of decision-making and benefits from offshore oil and gas resources.

Lying at the heart of the legislation is a new shared-management regime under which the province has an equal say in decisions affecting its offshore resources. This will significantly improve on the arrangements contained in the 1982 agreement with Nova Scotia, pursuant to which the province had only an advisory role in a federally controlled system.

The legislation will create a new, independent board to administer and regulate petroleum activities in the offshore on behalf of the two governments. The board will have considerable autonomy on technical decisions, but will be subject to the joint direction of the two governments on any fundamental decisions. The creation of this new board will be consistent with the government's overall approach to the management of eastern Canada's offshore resources. It builds on the foundation of the frontier energy policy announced in 1985 and upon the Atlantic Accord.

At this time I should like to explain briefly how the Canada-Nova Scotia Offshore Petroleum Board will operate. The mandate of the board will be to make decisions on matters directly affecting the management of offshore petroleum resources. The offices and personnel of the board will be in Nova Scotia and it will perform the functions previously performed by the Canada Oil and Gas Lands Administration with regard to all operations offshore Nova Scotia.

• (1450)

This new board will be composed of five members, including a chairman appointed by both governments. Each government will appoint two members to the board and may appoint alternative members to act in the absence or incapacity of any of the regular members. No more than two members of the board will be public servants.

The board will generally make all decisions relating to the management of offshore petroleum resources. The board will regulate the technical aspects of petroleum exploration, development and production on behalf of both governments and will have the final say on such technical matters. Decisions of the board that are considered fundamental will be subject to veto by the two governments. Examples of fundamental decisions are the issuing of calls for bids, the approval of development plans and the approval of benefits plans.

Honourable senators, the legislation will convert into a grant the $200 million offshore development fund created under the 1982 agreement. Above and beyond this, the Government of Canada will make available to Nova Scotia Resources (Ventures) Limited a new $25 million fund to assist it in participating in exploration and development drilling in the offshore area.

Another aspect of this legislation is that it incorporates existing federal legislation, the Canada Petroleum Resources Act and the Oil and Gas Production and Conservation Act so that there will be consistency in the legal framework for oil and gas activity in all offshore areas of Canada. This is highly desirable from both an industry and government perspective in ensuring that consistently safe and well-understood practices apply in all coastal areas.

The board will also be subject to the joint direction of the two governments on fundamental decisions, the holding of public reviews and the carrying out of special studies. The bill provides for memoranda of understanding to be entered into between the board and federal and provincial departments to coordinate and facilitate regulatory practices in the offshore. The board will be the instrument by which joint management is achieved in the offshore. It will operate in the spirit of the accord, which is to create an offshore management régime under which the province has a full and equal say in decisions.

Honourable senators, this bill will bring much needed stability to the management of offshore resources by harmonizing federal and provincial interests within a framework that will benefit all of Canada, and Nova Scotia in particular. It will create the kind of stable investment climate essential to foster industry activity and jobs. It allocates full control of offshore

revenues and fiscal instruments to the province as if these resources were on land. It is built on the principles of equity and parity that prevail under the Atlantic Accord and in other producing provinces.

The bill we are considering today reaffirms the equality of the two levels of government in the management of offshore resources and thereby bears witness to the harmonious approach this government has taken in its dealings with the provinces.

Honourable senators, a speech on second reading of Bill C-75 would not be complete without mentioning the harmonious approach that this government and the Government of Nova Scotia applied in resolving the Georges Bank issue. It clearly illustrates that joint management can and does work. As you may know, amendments to the bill with respect to Georges Bank were introduced in the House of Commons on July 7.

The people of Nova Scotia, those who stood to be most affected by any drilling activity on the Georges Bank, voiced strong concerns over the potential impacts on their precious fisheries resource. Both governments were aware of the environmental sensitivity of the Bank. Its unusual and well-documented combination of tides, currents and topography combine to create a unique habitat in which high concentrations of scallops and groundfish thrive.

Recognizing the need to ensure full protection of the Georges Bank fishery and taking into account the serious concerns being voiced over the potential impact of drilling in this area, the Governments of Canada and Nova Scotia reached agreement on measures designed to ensure a full and open public review of the question: first, a moratorium would be put in place on oil and gas activity on Georges Bank until at least the year 2000. Second, prior to 1996 an independent review panel would be formed to hold public hearings on the environmental and social impacts of drilling on the Bank. That panel is to report to the federal and provincial Ministers of Energy on or before July 1, 1999. Both ministers will then jointly decide whether the ban on petroleum activity should be extended beyond January 1, 2000.

Honourable senators, these amendments have received wide public support and the manner in which they were agreed on with the province is witness to the spirit of cooperation and the willingness of governments to work together that lies at the heart of Bill C-75.

In conclusion, the legislation to implement the Nova Scotia Accord will ensure that the Government of Nova Scotia takes its rightful place alongside the Government of Newfoundland and Labrador as an equal partner with the Government of Canada in the management of petroleum resources off the east coast. Bill C-75 will set aside the question of which level of government has jurisdiction over the offshore resources in favour of a joint management régime under which these resources will be managed for the benefit of all Canadians and in particular Nova Scotians.

[Senator Cochrane.]

The passage of this bill will mark another milestone in the history of federal-provincial relations. The era of confrontation with the provinces is truly over. It is only through cooperation and consensus that we can achieve harmony and unity, and Bill C-75 is a testimony to this truth.

On motion of Senator Frith, for Senator MacEachen, debate adjourned.

[*Translation*]

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Gerald R. Ottenheimer moved the second reading of Bill C-58, an Act to provide for the implementation of treaties for mutual legal assistance in criminal matters and to amend the Criminal Code, the Crown Liability Act and the Immigration Act, 1976.

He said: Honourable senators, no one would think of denying that cooperation is essential to the life of the international community.

Investigation and punishment of crimes are essential activities of government. The legislative branch creates offences, which the executive has the responsibility to punish. But this activity is pursued only on the national territory, because outside its boundaries, the state does not exist and can only perform these duties to the extent that the foreign government consents.

This consent, which is essential for international cooperation, is given in a more or less formal agreement expressed in a treaty or tacitly, out of the need for mutual assistance and respect.

[*English*]

I have notes that go on in interesting detail pointing out the growing importance today of the whole area of mutual legal assistance in criminal matters. I think in general honourable senators would agree with the points made therein. It is pointed out that in recent years we have made great advances in technology and communications, transportation and the transfer of money from country to country, or jurisdiction to jurisdiction, and also, of course, in the great mobility of people. All these aspects, which in abbreviation could be called "technology and mobility", require that within the international legal context there be a realistic system of mutual legal assistance in criminal matters.

[*Translation*]

With this bill, the government publicly emphasizes its commitment to dealing with the increase in transnational crime. The bill arises from the present government's intense activity in this respect, which led to the plan for mutual legal assistance in criminal matters adopted by the Commonwealth at the Harare Conference in July 1986 and the signing of a treaty for mutual legal assistance in criminal matters with the United States on March 18, 1985.

We must see this bill within the context of what is generally understood by mutual legal assistance. For police investiga-

tions, there is a form of mutual assistance that is non-compulsory and does not require the strict framework of a treaty or enabling legislation. I am referring to the kind of informal cooperation that exists among police forces the world over.

In certain cases, however, it would not be possible to obtain the information requested because the individuals who possess the information refuse to communicate it unless legally forced to do so.

Mutual legal assistance in criminal matters sometimes uses voluntary means, while in other circumstances, such assistance can obtained only through the use of compulsory means. The fact is that today, there is nothing in our statutes that authorizes the exercise of mutual legal assistance by compulsory means, with the exception of the limited scope of a rogatory commission.

• (1500)

[*English*]

Canada has decided to base its system of mutual legal assistance in criminal matters on a regime of bilateral treaties. It is felt that such negotiated bilateral treaties will give the flexibility to protect Canada's interests and to recognize the legitimate interests of the other partners—the other signatories to the treaties.

Also, of course, the criminal law in Canada is, essentially, founded on the common law tradition, and Canada will be entering into treaties with jurisdictions based on the Roman civil law. It is felt that the mechanism of the negotiated bilateral treaty will give the flexibility to best accommodate this—what, for want of a better term, I will call—"duality".

[*Translation*]

This bill provides the measure of assistance we consider we can legitimately offer our partners. Under the authority of the Minister of Justice, mutual legal assistance concentrates on four areas: search warrants, evidence-gathering for foreign countries, the transfer of persons in custody and finally, the lending of exhibits. It would be difficult to imagine any other form of mutual assistance that would be effective while at the same time respecting the sovereignty of states.

The definitions proposed in Clause 2 substantially repeat those contained in the Canada-U.S. treaty on mutual legal assistance in criminal matters, and identify a judge of the Superior Court of a province or territory as the person competent to order the use of a compulsory measure. In the event of any inconsistency between the provisions of this bill and the provisions of other federal legislation except for provisions prohibiting disclosure of information, the provisions of this legislation prevail. The bill provides for adding to a schedule the names of foreign states that have signed a treaty for mutual legal assistance in criminal matters with Canada and orders the publication of such treaties in the *Canada Gazette*. A treaty once published shall be judicially noticed.

The bill also allows foreign states to apply to Canadian courts to enforce payment of fines imposed in criminal matters in those countries.

[*English*]

Clauses 10 to 16 of Bill C-58 provide that a search warrant can be obtained in Canada to gather information or evidence for a foreign investigation. Once the request has been accepted by the Minister of Justice, several conditions must be met before the search warrant is issued.

The application must be made to a Canadian judge of the superior court of criminal jurisdiction, and not to a justice of the peace, as is the case for regular search warrants under the Criminal Code. The judge must be satisfied that an offence within the meaning of the applicable treaty has been committed; that the foreign state has jurisdiction over that offence; and that it is believed that evidence of the commission of that offence will be found in the province. Because of its special nature, the search warrant issued under the proposed legislation is considered to be a means of last resort for providing the assistance requested. Therefore, before a search warrant is issued, the judge must be satisfied that the evidence or information being sought cannot be obtained as efficiently by an evidence-gathering order, which constitutes a less intrusive means.

Finally, the search warrant must be issued to a peace officer whose name must be specified in the warrant. The judge also has discretion to submit the execution of the search warrant to specific conditions, such as the manner in which it must be executed and so on.

[*Translation*]

Clauses 17 to 23 authorize the judge to summon persons to testify or to produce documents or things. As in the case of a search warrant, the judge may impose the conditions for the entire proceedings, including the manner in which a refusal by a witness to answer questions is to be dealt with, where such refusal is based on the law enforced in Canada or abroad.

[*English*]

Clauses 24 to 29 introduce a new measure into Canadian law, namely, the transfer of detained persons for the purpose of providing assistance to a foreign country. The proposed legislation provides for the temporary transfer abroad of a person serving a term of imprisonment in Canada for the purpose of assisting the requesting state or to testify in a criminal proceeding abroad. Such a transfer is always subject to the detained person's consent. Before a judge could order the transfer, the judge would first have to be satisfied that the person in question had not only consented to go abroad but had consented freely.

[*Translation*]

Clauses 30 to 34 provide for the lending to a foreign state of exhibits that have been admitted in evidence in criminal proceedings in Canada in respect of an offence as defined in the applicable treaty.

The purpose of all these provisions is, of course, to act on requests by a foreign state made in accordance with the provisions of a treaty for mutual legal assistance in criminal matters. When Canada is the requesting state, the application

of the Criminal Code is made more flexible by the bill so as to avoid any prejudice to the Canadian request.

The bill provides that the Minister of Justice shall authorize the transfer to Canada, for a period of time specified by the minister, of a person detained in a foreign state. A transfer would be necessary, for instance, if the prisoner's deposition were required in criminal proceedings or a criminal investigation in Canada. It would be impossible to keep this person in Canada under a foreign order of detention. However, the bill provides that a Canadian judge may make an order for the detention of that person for the duration of his stay in this country, and of course the bill provides for paramountcy of the judge's order. Thus we have the assurance that the transferred individual will be returned to the foreign state.

Finally, the bill provides for consequential amendments, one of which would have the effect of authorizing disclosure, to a foreign police force or prosecutor, of private communications which have been intercepted in Canada, if such disclosure is intended to be in the best interests of the administration of justice.

• (1510)

[*English*]

Honourable senators, that is the general outline of the purpose and, indeed, the clauses of Bill C-58, which I am sure honourable senators will look forward to mulling over in committee.

On motion of Senator Frith, debate adjourned.

THE CONSTITUTION

CONSTITUTION AMENDMENT, 1987—MOTION TO TRANSMIT COPY OF SENATE RESOLUTION TO LEGISLATIVE ASSEMBLIES AND FOUR NATIONAL ABORIGINAL ORGANIZATIONS—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Marchand, P.C.:
>
> That the Honourable the Speaker do transmit to the Legislative Assembly of each province a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, and urge that the provinces do likewise; and
>
> That a copy of the said Resolution be transmitted by the Honourable the Speaker to the Legislative Assemblies of the Yukon and of the Northwest Territories and to the four National Organizations representing the aboriginal peoples of Canada.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have no intention of taking a great deal of time in addressing this motion of Senator Watt's. I simply want to say that the reasons given during the debate on the accord by this side of the house in opposition to the point set forth by Senator Watt are still valid. We are not in a position to support the resolution. The House of Commons has adopted the accord as is and it has been endorsed by most of the provinces at this point. We see no reason why we should endorse this particular motion at this time.

Therefore, with those few comments, honourable senators, I leave it to the house to dispose of it as it will.

Hon. Daniel A. Lang: Honourable senators, I should like to address a few remarks to Senator Watt's motion, perhaps on somewhat legalistic points. I would remind honourable senators that Senator Watt spoke to this motion on June 15. In his remarks he raised a fundamental matter of constitutional law. Not only is it of particular concern to our parliamentary institutions but it is also of concern to all the people of Canada because of its long-term implications.

What we must remember is that in this matter we are moving in an unprecedented area. By our actions we are setting precedents that might affect the constitutional practices of this country for years to come. For that reason we must proceed with greatest caution and premeditation.

Our first problem is to determine what procedural matters we must consider when dealing with the Constitution and what matters are, in fact, matters of substance. I have only to remind honourable senators of an old adage that comes from the common law of many years ago, that the substance of the law is bound up in the interstices of procedure. So, as we proceed in these matters, we must take great care with regard to the procedures we adopt, because they will ultimately affect many very important matters of substance.

May I now remind honourable senators of the points that Senator Watt brought out in his speech last June?

First he said that the Senate's role in the constitutional amendment process is not the same as that with respect to legislation. I could not agree with that statement more heartily.

I am afraid that we have been dealing with this major constitutional initiative called the Meech Lake Accord as though it had been a bill coming from the other place that we had amended. That, honourable senators, is far from the truth. In fact, what we did here on April 21 was to pass a resolution under Part V of the Constitution Act of 1982. Under that part there are only two sections under which we could have been proceeding: either section 46 or section 47. I would like to turn back to that point in a moment.

In his remarks last month Senator Watt pointed out that, when it approved a resolution authorizing a modified version of the Meech Lake Accord, the Senate did something far more important than simply to reject the resolution that had been transmitted to us from the House of Commons. He maintained—and I submit he may very well have been correct; and I will get back to this matter in a few moments—that, when we passed the resolution in its final form in this chamber, we initiated a procedure for an entirely new set of constitutional amendments. In other words, there may very well now be two sets of constitutional amendments before the country: first, that resolution arising from the Meech Lake Accord, which was passed in the House of Commons initially—I say initially;

and, second, that constitutional amendment contained in the Resolution passed by the Senate on April 21 of this year.

May I now revert to Senator Watt's point and extrapolate somewhat on that? I think that what everybody in this house can agree upon is that on April 21 the Senate passed a resolution under Part V of the Constitution Act of 1982. Certainly, we did that. As I mentioned previously, that resolution could only have been passed under either section 46 or section 47. Nobody that I know of in this chamber or, I am sure, in any court has spoken to the point about which section we are proceeding under. I think it becomes self-evident how important it is for us to examine what we are doing. If we are not careful, we will be setting some very faulty precedents that could have long-term effects.

• (1520)

Let us first assume—and I emphasize that this is an assumption—that the Resolution we passed was passed under section 47 of the Constitution Act, 1982. I do not wish to bore honourable senators by reciting that section, but I think I must do so to refresh our memories. That section states:

> 47.(1) An amendment to the Constitution of Canada made by proclamation under section 38, 41, 42 or 43 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution.

If one looks to the French concomitant section, one will see that it refers to "de résolution" and "une nouvelle résolution dans le même sens".

Did we, in fact, pass a resolution "dans le même sens" in this chamber, or did we pass "such" a resolution, "such" being somewhat like the one passed by the House of Commons? Without labouring that point, one can see how the legalities may flow from the situation we have created. If it were so passed—that is, our resolution—under section 47, and it was "such" a resolution "dans le même sens", then the suspensive veto of the Senate is still in force and the subsequent resolution passed by the House of Commons may be absolutely meaningless—in legalise: a *brutum fulmen.*

I do not think I need to labour how important these considerations are to us. Let me refer again to Senator Watt's remarks. I presume, and I only presume, that Senator Watt's position is that the Senate has passed a resolution under section 46, and again, if I may be indulged by honourable senators, I would like to refresh our memories with respect to that section. It states:

> 46.(1) The procedures for amendment under sections 38, 41, 42 and 43 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province.

In other words, if my presumption is right, namely, that Senator Watt's position is that we passed in this chamber a resolution under section 46, then we have initiated another constitutional amendment. If that is the case, then Senator Watt's motion is very pertinent, because it becomes incumbent upon us to transmit that advice, not now to the House of Commons, as we have already done so, but to the legislative bodies of each of the provinces.

I am not too certain myself with regard to the second part of Senator Watt's motion, which states:

> That a copy of the said Resolution be transmitted by the Honourable the Speaker to the Legislative Assemblies of the Yukon and of the Northwest Territories and to the four National Organizations representing the aboriginal peoples of Canada.

I can certainly sympathize with the reasons for including that paragraph. In fact, I would like to see that paragraph included, but there is no such provision under the Constitution Act, 1982 to do so. This makes it possible that the main thrust of Senator Watt's motion, and its vital importance to the constitutional process, might be lost because of the appending of that second paragraph. I would hope that Senator Watt might consider deleting that second paragraph and then introducing it as a separate motion. Then I think we could not be faulted on any constitutional grounds for referring the resolution we passed to the legislative assemblies of the provinces. In effect, if Senator Watt would take that paragraph out and introduce it as a separate motion, we could all support that, but I would not like to see—

Senator Flynn: Oh!

Senator Lang: Well, those of us who are like-minded. I would not like to see its inclusion cause Senator Watt's motion to be jeopardized constitutionally in this chamber.

Subject to that one clarification, and because of the importance of the area in which we now find ourselves, the constitutional importance of the matter—and I am certain that sooner or later these issues will come right through our legal system to the Supreme Court of Canada with dear knows what results—I urge all honourable senators to support, first, Senator Watt's motion as unamended, and then, hopefully, as Senator Watt might agree, the two separate motions, the second being the second paragraph of the original motion.

Hon. Gildas L. Molgat: Honourable senators, would the Honourable Senator Lang permit a question?

Senator Lang: Certainly.

Senator Molgat: When Senator Lang referred to section 47, he said that there was some doubt in his mind as to whether or not the Senate, indeed, had lost its full veto, depending on one's interpretation of section 47. What course of action does he suggest should be taken to clarify this matter?

Senator Lang: I think the next step on the road is to send a copy of the same to the legislative assemblies of the provinces; otherwise we will have to have a constitutional amendment, because the wording of section 47 is so obtuse that I think it could be litigated on for hundreds of years. But as to rectifying the situation that we find ourselves in now, I doubt that we can

do anything more now. I think somebody has to challenge whether the House of Commons, in passing that resolution the second time, was in fact just creating a nullity.

Senator Frith: A dud shell.

• (1530)

Hon. Jean Bazin: Honourable senators, I have a question for Senator Lang.

Senator Lang, I was not sure of what you meant in your argument on the distinction between the French and English texts of Article 47: "la résolution dans le même sens" or "such a resolution". Were you making the point that there was a difference between the French and the English text or were you using those two sets of words interchangeably?

Senator Lang: I am no linguistic expert, I can assure you, but, in my ignorance, I would think that they have quite a different connotation.

Hon. Royce Frith (Deputy Leader of the Opposition): It helps give you one interpretation of Article 47 of the English.

Senator Lang: If you look at the French text, it seems to me far more explicit, and it strengthens an argument that, in fact, the Senate has not lost its suspensive veto.

Senator Frith: In this case.

Senator Lang: In this case. In the English section the word is "such", and I think "dans le même sens" is a far more accurate expression than the word "such". I looked in the *Oxford English Dictionary* for the word "such" and it has a variety of meanings that are quite divergent, and I think that the French text is far more accurate in expressing the sense of the section.

In the English section the word "the" is used: "the issue", "the issue of the proclamation"; whereas the French text says: "adopté de résolution". Again, the use of the word "de" is consistent with "le même sens"; whereas in the English section the use of the word "the" is more or less inconsistent with the use of the word "such". I hope that made some sense to you, "dans le même sens".

On motion of Senator Frith, debate adjourned.

THE CONSTITUTION

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

On the Order:

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

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the Meech Lake Constitutional Accord and texts subsequently agreed to, The Honourable Gildas L. Molgat in the Chair.

The Chairman: Honourable senators, the committee is now in session. At the last meeting of the steering committee it was agreed that the report to the Committee of the Whole would be a factual analysis of evidence received by the committee and that it would identify the main objections. It was agreed that the report would not contain recommendations or conclusions and that no concurrence would be asked for.

Following on that instruction, the staff have prepared a document, which I am now tabling as the report of the committee. It contains what I believe to be an accurate reflection of what the committee heard in Committee of the Whole. In addition to that, we have added as Appendix I the exact draft wording of the Meech Lake Accord, and as Appendix II the wording of the Langevin Accord so that in the one text those two documents are available, because they are frequently referred to.

In addition, we have added as Appendix III the Task Force Report on the North, because it was never tabled here as part of the documents or appended to the *Debates of the Senate*. This, then, is the report to the Committee of the Whole.

Senator Frith: Mr. Chairman, I move that the chairman table the report in the Senate and that the committee rise, report progress, and ask for leave to sit again.

The Chairman: It is moved by Honourable Senator Frith that the report—

Senator Doody: Repeat it again?

Senator Frith: That the chairman table the report in the Senate, in effect reporting it from this committee, and that the committee rise, report progress, and ask for leave to sit again.

Senator Doody: You do want to sit again?

Senator Frith: Perhaps not. What do you think? If the chairman does not think that we need to, then I suppose we do not need to.

Senator Doody: We are finished.

Senator Frith: Mr. Chairman, do you have any further business for the committee?

The Chairman: There is no immediate business that I know of before the committee. The situation, however, is that there are two provinces that have not yet signed the accord, and it is a possibility that the Committee of the Whole might want to agree to meet again. I do not know.

Senator Flynn: Mr. Chairman, you meant there are two provincial legislative assemblies, not governments.

The Chairman: That is correct, two provincial legislative assemblies, to be precise.

Senator Flynn: Yes. The two governments have signed.

Senator Frith: Mr. Chairman, that point is well taken. Between reconstituting the committee and letting it stand while we await the completion of the amending process, it might be better to rise and report progress and let the committee exist until there is some business. If and when the process is completed, we could then wind up the committee.

Senator Doody: That is fine.

The Chairman: The motion will be that the committee rise and table the third report in the Senate. Following on the discussion earlier today, I suggest that it be printed in today's *Debates* and not in the *Minutes of the Proceedings*, so that it will only appear in the *Debates*. Then the committee will ask for leave to sit again. Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Doody: Mr. Chairman, that was the subject of my intervention earlier today on another report. The report has been printed and distributed. Do we need to print it again in *Hansard*? Maybe we should not discuss that here. Maybe we should discuss it in the Internal Economy Committee later on. The report has been printed and is now being distributed as a document on its own. Is it necessary that it be printed in *Hansard*, or should a notation in *Hansard* indicate that it is available?

Senator Frith: Do you mean either in the Senate *Debates* or in the *Minutes*?

Senator Doody: That it be noted in both that the document has been tabled and is available for people who want it. It is not necessary to print thousands of copies.

Senator Frith: That is a good idea.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, I suggest that, if the document is not to be printed in both the *Debates* and the *Proceedings*, it should be printed in the *Proceedings* so that it will enter into the *Journals of the Senate* and thus be part of the official record of this house. I am not concerned that it be printed in both places, but it ought to be part of the official records of the house. The *Debates* are not the official record of this house; the *Proceedings* and the *Journals* are. That is where it should appear.

Senator Frith: I am content with that. That is what we did with the other one.

The Chairman: You are suggesting that it not be printed in the *Debates* but that it be printed in the *Minutes of the Proceedings of the Senate* so it then becomes a permanent record. Is that agreed, honourable senators?

Hon. Senators: Agreed.

The Chairman: The committee will rise.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Gildas L. Molgat: Honourable senators, the Committee of the Whole, to which was referred the Meech Lake Constitutional Accord and texts subsequently agreed to, has directed me to table the third report of the committee and ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate*. The committee reports progress and requests leave to sit again.

The Hon. the Speaker *pro tempore:* When shall this committee have leave to sit again?

Hon. C. William Doody (Deputy Leader of the Government): At the next sitting.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Doody, seconded by Honourable Senator Flynn, that the committee have leave to sit again at the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

● (1540)

CHILD CARE

NATIONAL POLICY—ORDER WITHDRAWN

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Spivak calling the attention of the Senate to the question of a national policy on child care.—(*Honourable Senator Spivak*)

Hon. Mira Spivak: Honourable senators, with leave of the Senate, I should like to have this item withdrawn since there is now another item on the same subject.

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed that the order be withdrawn?

Hon. Senators: Agreed.

Order withdrawn.

OFFICIAL LANGUAGES

MOTION FOR APPOINTMENT OF SPECIAL COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-72 WITHDRAWN

On motion of the Honourable Senator Wood:

That a special committee of the Senate be appointed to examine and report upon the subject-matter of the Bill C-72, An Act respecting the status and use of the official languages of Canada, in advance of the said Bill coming before the Senate or any matter relating thereto:

That the Bill be referred to the said special committee, in due course;

That, notwithstanding Rule 66(1)(*b*), the special committee be composed of the Honourable Senators Bonnell, Cools, Cottreau, David, De Bané, Guay, Ottenheimer, Robichaud, Tremblay and Wood;

That the quorum of the special committee be four members; and

That the committee have power to send for persons, papers and records, to examine witnesses, to report from

time to time and to print such papers and evidence from day to day as may be ordered by the committee.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, because of the notice of motion that Senator Wood gave today relating to the establishment of a special committee, which also included the proposal for pre-study, on behalf of Senator Wood I ask leave to withdraw this motion. Senator Wood will be replacing this motion with another motion that she will speak to on Thursday.

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed that this motion be withdrawn?

Hon. Senators: Agreed.

Motion withdrawn.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 3918*)

REPORT
OF THE SUBCOMMITTEE ON CHILD CARE

(Subcommittee of the Standing Senate Committee on Social Affairs, Science and Technology)

July 1988

MEMBERS OF THE STANDING SENATE COMMITTEE ON SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

The Honourable Senator Arthur Tremblay, *Chairman*
The Honourable Senator M. Lorne Bonnell, *Deputy Chairman*

and

The Honourable Senators:

Jack Austin, P.C.
Paul David
Philippe D. Gigantès
Stanley Haidasz, P.C.
Jacques Hébert
*Allan J. MacEachen, P.C.
(or Royce Frith)
Lorna Marsden
Jack Marshall
Hartland de M. Molson
*Lowell Murray, P.C.
(or C. William Doody)
Brenda M. Robertson
Mira Spivak

**Ex-officio members*

MEMBERS OF THE SUBCOMMITTEE ON CHILD CARE

The Honourable Mira Spivak, *Chairman*
The Honourable Lorna Marsden, *Deputy Chairman*

and

The Honourable Senators:

Philippe D. Gigantès
Yvette Rousseau (1)

Note: The Honourable Senator Paul David also served on the Subcommittee from time to time as Acting Member.

(1) The Subcommittee notes with deep regret the passing of the Honourable Senator Yvette Rousseau, who was keenly interested in the Child Care study.

STAFF OF THE SUBCOMMITTEE ON CHILD CARE

Denis Bouffard
Clerk of the Subcommittee

Maureen Baker and
Mildred Morton
Researcher Officers
Library of Parliament

ORDERS OF REFERENCE

Extracts from the *Minutes of Proceedings of the Senate*, Tuesday, February 9, 1988:

"With leave of the Senate,

The Honourable Senator Tremblay for the Honourable Senator Spivak moved, seconded by the Honourable Senator Macquarrie:

THAT, notwithstanding its order of reference of 5th May, 1987, the Standing Senate Committee on Social Affairs, Science and Technology be authorized to continue the examination of the Final Report of the Special Committee of the House of Commons on Child Care, entitled: "Sharing the Responsibility";

THAT the Committee be further authorized to examine the Federal Response to the said Final Report in which is outlined the National Strategy on Child Care; and

THAT the Committee present its Report no later than June 30, 1988.

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

Charles A. Lussier

Clerk of the Senate

Extracts from the *Minutes of proceedings of the Standing Senate Committee on Social Affairs, Science and Technology*, Tuesday, March 1st, 1988:

"The Honourable Senator Bonnell moved, –

THAT the Ad Hoc Subcommittee on Child Care become the Subcommittee on Child Care responsible for studying the proposed Research Plan; that the same senators be members of the Subcommittee, namely the Honourable Senators Gigantès, Marsden, Rousseau and Spivak; and that the Honourable Senators Spivak and Marsden continue as Chair and Deputy Chair respectively.

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

Denis Bouffard

Clerk of the Committee

Extracts from the *Minutes of Proceedings of the Senate*, Tuesday, July 5, 1988:

"With leave of the Senate,
The Honourable Senator Bonnell moved, seconded by the Honourable Senator Spivak:

THAT, notwithstanding the Order of the Senate adopted on Tuesday, 9th February, 1988, the Standing Senate Committee on Social Affairs, Science and Technology, which was authorized to continue its examination of the Final Report of the Special Committee of the House of Commons on Child Care, entitled: "Sharing the Responsibility", be empowered to present its report no later than Friday, September 30, 1988.

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

Charles A. Lussier

Clerk of the Senate

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FOREWORD

The Subcommittee on Child Care was formed in March 1988 to study the federal government's child care initiative, which had been announced the previous December. For the first time a concerted federal/ provincial effort to create a national child care system was in process, and the Subcommittee wished to examine the federal government's proposals.

The aim of the Subcommittee's study was to obtain information. Federal/provincial negotiations had begun. The process would end in federal legislation designed to implement the arrangements which had been reached. The Subcommittee embarked on its study in order to be able to comment on the legislation responsibly, with a good background knowledge of the issues involved.

The Subcommittee was interested in learning how the federal proposals could affect provincial child care programs. This approach is consistent with the Senate's responsibility to represent the interests of the various regions of Canada.

A great deal of material about the provincial programs is publicly available. This was reviewed by the Subcommittee's researchers. As well the study led to a detailed examination of the day care subsidy under the Canada Assistance Plan, the funding arrangement under which the federal government participates in provincial child care programs.

However, the principal interest of the Subcommittee was to learn how those involved with child care services on a day-to-day basis responded to the federal proposals. We wished to interview people who could explain how the provincial programs actually work and what options provincial governments were likely to be considering in light of the federal proposals, and who could assess the proposals on the basis of their knowledge of the child care system. Many of the Subcommittee's witnesses had been involved in child care for many years, as researchers, caregivers and parents. Many were advocates for a national system of quality services. We also heard from parents who do not use child care services.

The Subcommittee did not travel, and was therefore not able to hear testimony from all provinces and territories. As a result some interviews were conducted by telephone.

This Report is both a reflection of what the Subcommittee learned, and a response. It is designed as a background paper to forthcoming federal child care legislation.

Mira Spivak
Chairman
Subcommittee on Child Care

CHAPTER I

Child Care Services: The Present System

> It is very interesting for me to hear from someone from Alberta and someone from Newfoundland because it is all different, and yet it is all the same. (Canada, Senate, The Standing Senate Committee on Social Affairs, Science and Technology, *Proceedings of the Subcommittee on Child Care*, April 12, 1988, 2:27, hereafter referred to as *Proceedings*)

The provinces and territories are at different stages in the process of developing child care policies. Parents' needs may differ in important ways from province to province, which also affects the development of services. Provincial child care programs resemble each other, however, in what they lack. In this section we do not give a detailed account of child care programs across Canada. Rather, our intention is to give a sense of the system or systems that the federal proposal is trying to affect, and also to suggest how rudimentary the system really is.

A. Provincial Policies

Over the last decade or so three provinces have tried to influence the development of child care services in a significant way. Since 1982 the government of Manitoba has made a sustained attempt to create a system of affordable services administered and operated on a non-profit basis. To this end it has introduced operating grants to eligible services, and has placed a ceiling on the fees which they charge. The grants are designed to stabilize fees while meeting the costs of a quality service. The fee ceiling is intended to prevent the segregation of services on the basis of parents' income. In 1986 Manitoba introduced measures to increase the salaries of child care workers and encourage them to pursue training. There is a Child Day Care Office, which is responsible for developing program standards and for planning. In addition a special staff of coordinators monitors standards, refers parents to services, and provides public information.

In 1979 the government of Quebec passed legislation designed to develop a range of services, including day care centres, family home day care (services provided in the

caregiver's home), services in schools (after-school care), nursery schools and occasional services (which could be used by mothers who are not in the labour force). A separate agency, which reported to the Minister Responsible for the Status of Women, was set up to administer the program.

The government has in fact directed its funding to developing centre spaces and, to a lesser extent, family home spaces. It provides various kinds of capital and start-up grants to centres as well as grants to cover rent payments. There are also grants for operating costs (other than rent). Funding for day care homes is directed to agencies which administer the services. More recently the government has turned its attention to increasing infant spaces in child care centres, and has introduced additional funding for that purpose.

Quebec is interested in parent-controlled services, and until very recently gave grants only to non-profit services with parent boards. (The province will now fund services run by a joint parent/ community board.) The province has, however, been willing to give fee subsidies to parents who use for-profit services. According to our witness from Quebec, the number of these services has increased in the last few years.

In 1987 an advisory council reviewed the province's child care policy at the government's request. In its report the council recommended a number of significant changes (Gouvernement du Québec, *Rapport du Comité consultatif sur les services de garde à l'enfance*, le 29 juin 1987). The government has yet to respond to the report.

Between the late 60's and 70's Alberta's municipalities were the principal initiators of day care services and standards. Although some services were operated by the municipalities themselves, most were run by non-profit community boards. Between 1978 and 1980 the provincial government assumed responsibility for services for preschool children. The government introduced province-wide standards. A second initiative was to encourage the growth of services by introducing operating allowances, which were intended to help services meet the standards. The program is still in existence. In contrast to the other two provinces, operating allowances were made available to for-profit operators. The number of spaces did increase significantly, with the expansion being led by the for-profit sector. This policy has not changed significantly since 1980.

Interestingly, municipalities continue to assume responsibility for school-age child care, and they are attempting to do so in a concerted way. At least 18 municipalities are actively involved in developing services. There is an Inter-Municipal Task Force which is designed, among other things, to develop minimum standards; promote and encourage the

development of training programs for caregivers at the community college level; and encourage the use of community facilities for school-age programs.

These three provinces have pursued their programs somewhat independently of the federal government's own initiatives with respect to child care. As we explain in Chapter II and Appendix I, the current federal/provincial fiscal arrangements relating to child care services do not support the effort to extend services to parents of all income levels, or to improve the quality of services by raising the salaries of caregivers, through the mechanism of a direct grant. Neither do the arrangements allow the federal government to share any of the expenditures made in respect of for-profit services in Quebec and Alberta.

The new federal proposal is more flexible. In future all these expenditures would be shareable. The increased flexibility would help the provinces pursue their different goals, but it would also raise the cost for the federal government. This caused our witness from Quebec to wonder how far that province would be allowed to expand its program:

> With respect to sharing operating costs, with respect to financial assistance, I don't think Quebec stands to gain a great deal from the new federal policy. On the contrary, it may even lose. In any case, the expenditures will hit a ceiling in seven years. If ever we provide as many child care services as we expect to provide, and a great many families need financial help and are entitled to financial help, this means Quebec won't have the right to all this money. (*Proceedings*, May 3, 1988, 4:15)

More recently, the Yukon, Prince Edward Island and Ontario have undertaken important initiatives. Since 1985 the government of the Yukon has dramatically increased expenditures for services. The government has improved standards, especially with respect to infant care. It has tried to increase spaces by introducing some funds for capital development, and has also introduced operating grants. As well, it has increased fee subsidies. The program is administered through a day care coordinator. An independent board is responsible for maintaining standards. While we were holding our hearings the government began a series of public consultations which would be the basis of a more directed policy.

In 1986 Prince Edward Island indicated the direction it wished to follow in developing services. Since then, it has concentrated on three aspects of its policy: the quality and availability of services, areas where it has implemented new initiatives, and fee subsidies to low-income parents. The province has introduced new training standards, and direct funding to increase salaries for child care workers. It gives a small grant to the Early Childhood Development Association to maintain materials which can be loaned to licensed

centres. The province sponsors seminars and workshops on early childhood education to provide opportunities for professional development. It also subsidizes course fees for early childhood education in certain circumstances. In recognition of the need for infants to be cared for in small groups, the government has introduced an Infant Incentive Grant for licensed day care homes which meet established criteria.

It seems clear that the governments of the Yukon and P.E.I. would not have embarked on their initiatives without the expectation of increased federal support. The government of P.E.I. expressly acknowledged the importance of a new federal program in the document which set out its guidelines for developing child care services:

> While Government support for licensed child care services is on-going, the Direct Funding program for licensed facilities and the Infant Incentive Grant, as described in this document, will only be available during the present fiscal year, ending in March, 1988. In early 1988, the Provincial Government will undertake an analysis of upcoming Federal initiatives for child care. This analysis, combined with an evaluation of the 1987-88 direct funding program, will help determine the nature of Government funding for licensed child care facilities for fiscal year 1988-89, as well as future years. (P.E.I. Department of Health and Social Services, *Guiding Principles for the Development of Child Care Services*, September 1987, p. 20)

Ontario has designed a comprehensive child care policy in anticipation of the new federal program. The province intends to increase services through the non-profit sector, improve existing services and expand the financing of fee subsidies to parents. The government has set some short-term priorities: higher salaries for caregivers, and more subsidies for parents with infants and handicapped children. New initiatives include direct funding to services through capital and operating grants. Existing for-profit services will be eligible for funding, though new services will not.

The province recognizes the need for planning. It has set up a new Day Care Branch, which is responsible for developing policy, designing new models of service, determining the need for funds and evaluating the program. The province intends to implement its policies through a series of three-year plans.

What are the implications of the new federal child care initiative for Ontario? Our witness gave this question a lengthy response:

> I have been attempting to make assumptions as to what Ontario's expenditures might be in the future with respect to child care. During my research in this respect, I have talked to many people who are involved in research with respect to child care or who are child care advocates. In fact, the province has commissioned a great deal of research on various aspects of child

> care. The consensus of opinion I have gathered from these people is that most people in Ontario are extremely concerned about the federal strategy for reasons quite different from those expressed by people from other provinces. In my opinion, the Ontario government has actually gone out on a limb to lay out what they want to do and, in a sense, the federal strategy is perfectly tailored to allow Ontario to do exactly what it wants to do. For example, Ontario wanted more flexibility in funding services that were not merely subsidies to low-income families, and they wanted cost-sharing on that funding. With respect to provincial resource centres and drop-in centres, which are for parents at home, these centres play a real role, especially in rural communities. At the present time there are approximately 130 of (them) in the province. Subsidies cannot be given for in-home care of any kind at the moment ... However, at the moment, the province cannot fund those things, and they want some flexibility.
>
> The province of Ontario would also like to have some cost-sharing for whatever they do in the commercial sector. Even though they would like to contain that sector to some extent, I do not think they would like to lose what they already have.
>
> However, in the opinion of a great many people, within two or three years Ontario will be left holding the financial bag. Working with assumptions that are not clear is difficult, but the feeling I have garnered in my research is that, no matter how much Ontario's share will be from the federal government, in two or three years Ontario will be bumping up against a ceiling. Federal spending has now had a new ceiling placed upon it and, although it is not clear what Ontario's share will be, there are other provinces to be considered. (*Proceedings*, April 12, 1988, 2:53-54)

Other provinces have not been as involved with directing the development of services, although with the exception of the Northwest Territories, they do regulate services. According to our witnesses, British Columbia does not even consider itself responsible for encouraging development. The province's chief concern is to subsidize fees for low-income parents. Subsidized parents do not have to use regulated services. There is no ministry or department engaged in assessing the need for services or in policy development. In Saskatchewan expenditures for day care services have been cut back for the last three years, and the number of licensed spaces has decreased. Nova Scotia and Newfoundland have introduced no substantive measures for a number of years. The government of New Brunswick has indicated areas where it would be inclined to develop policies. It has set up an Office of Early Childhood Services to coordinate existing programs, but at the time of our hearings no money had been budgeted for the Office.

The consequences of the proposed federal arrangements for these provinces are unclear. They could choose to expand whatever programs now exist. Or they could introduce additional measures. Witnesses from the Atlantic provinces pointed out that at

present their provinces lacked the fiscal capacity to share 50% of the costs of an expanded program of any sort. They expressed doubts about whether their provinces could do so in the foreseeable future.

> (So the seven years will pass under this program -) and all you will see in Newfoundland is an increase in the number of spaces and a panicky government saying, Where are we going to find a 50-cent dollar now?" (*Proceedings*, April 12, 1988, 2:43)
>
> ***
>
> Recent statements by the Nova Scotia Minister of Community Services expressed concerns over the time-limited nature of the "catch-up" proportionate funding... ; the lack of attention to the salary issues; and the general lack of money in the package, among other issues. As of yesterday or the day before, according to a source at the Nova Scotia Advisory Council on the Status of Women, he and the department still feel that those concerns are not being adequately addressed...
>
> The advocacy community ... in its formal and informal capacities is supporting the Nova Scotia government in its hesitations over the proposed CCCA (Canada Child Care Act), and it asks: "How does the publicity over more spaces really translate for Nova Scotia? How can the moneys be used to address the salary issue? How can the "have not" provinces support, on a 50/50 basis, seven years from now, an expanded network of day care they cannot support now? Will the ceilings under the new act make the situation worse...? . .. (*Proceedings*, April 5, 1988, 1:19-20)

B. Planning/Data Collection

All provinces, whatever the nature of their policies, appear to have engaged in little planning. Our witness from Quebec remarked that the province's policy up to now had lacked coherence:

> There is no policy that says, "We're going to develop services in this direction, we're going to develop so many services in a home setting, so many day-care centres, etc". (*Proceedings*, May 3, 1988, 4:9)

We have found that Quebec is not unique in this.

Absence of planning is accompanied by very little data collection. For example, to our knowledge no province has accurate information on the demand for services. In fact the federal government has recently awarded funding for a nation-wide study which is designed to provide the necessary data in this area, among others. Up to now there have been estimates of need based on the numbers of children with parents who are working, in

training or studying. As well, there have been a few studies of what services parents would prefer.

There is controversy over whether to fund for-profit services. However, provinces have not collected the information which would allow them to compare the quality of care in for-profit and non-profit services.

There is not enough information on the costs of care or the salaries of caregivers. Although all provinces subsidize child care fees for low-income parents, they very often do not know how many children are subsidized at what ages, or the incomes of families which receive subsidies.

C. For-Profit/Non-Profit Services

In 1986 about 40% of all licensed child care spaces in Canada were run by individuals or groups characterized as "commercial" or for-profit operators. But as we have indicated earlier, this figure may vary widely from province to province. In 1986 commercial operators provided 73% of the spaces in Alberta, 76% in Newfoundland, and 53% in Prince Edward Island. In Manitoba, Quebec, and Saskatchewan (which does not even license for-profit care), the percentages were of course much lower (17% , 13% and 3%, respectively). (*Status of Day Care in Canada 1986*, National Day Care Information Centre, Department of Health and Welfare, 1987, Table 6, p. 6).

The designation "for-profit" or "commercial" covers various types of organization. In the Atlantic provinces many of these services are owned by women (or families) who provide care in their homes, either alone or with staff. Often these are referred to as "mom and pop" operations. Commercial services may also be provided by corporations, which own the building in which services are provided, or by chains (corporations affiliated with others). Even the classification "non-profit" covers both organizations run by parent boards and, for example, an incorporated family which provides services and pays itself a salary. Available statistics do not distinguish between the types of service which can be included under the "commercial" and "non-profit" classifications.

D. Gaps in the System

It has become customary to describe child care services in terms of availability (the number of spaces there are), quality and affordability (whether parents can afford to pay for them). In all provinces, no matter what their policies, there are deficiencies in all three

areas. Our witnesses pointed this out in detail, and we discuss what they said in the next chapter. What we wish to do here is to give a sense of the variety of problems which exist across Canada.

All our witnesses mentioned the absence of services for infants – children under one-and-a-half or two years old. As well, a number of provinces have a largely non-urban population whose demand for child care may be seasonal. But services flexible enough to meet the needs of these parents do not yet exist. In contrast witnesses from Alberta remarked that there were parents on waiting lists for non-profit centres in Edmonton and Calgary, but vacancy rates as great as 22% in for-profit centres.

With respect to quality, all provinces and Yukon have some regulations which set standards for services. But requirements regarding child care workers vary significantly. For example, in Nova Scotia the staff/child ratio for infants is 1:7, (that is one caregiver is allowed to look after seven infants), in Quebec 1:5, in Alberta 1:3. Newfoundland does not have regulations regarding infant care; in fact, it does not allow child care centres, the only regulated service, to admit infants. Alberta and the Northwest Territories have no standards regarding the qualifications of child care workers. Other provinces may require only a certain number of day care staff to be trained. In general no training standards are formulated for family home caregivers.

All our witnesses mentioned that there were problems with monitoring and enforcing what regulations did exist. In some provinces the regulation of child care services is part of general health and safety regulation, so that inspectors must cover many more facilities than child care centres or family day care homes. Where there is a separate agency responsible for monitoring, there may not be enough staff. Some witnesses stated that there was so much pressure to keep spaces open that inspectors were unwilling to take action against offending operators.

Finally, different provinces subsidize families at widely varying income levels. As a result it has been estimated that in some provinces only about 4% of all preschool children with working parents were eligible for full subsidies in 1987. In comparison 23% of these children in Saskatchewan and 38% in Ontario were eligible. (*Provincial Day Care Subsidy Systems in Canada*, A Background Document produced by the Staff of the House of Commons Special Committee on Child Care, 1987, p. 7). However, not all parents eligible for subsidies actually receive them. Here again provinces differ. In 1987 it was estimated that in Ontario 12% of eligible preschoolers received a subsidy, compared to 83% in Alberta (*Provincial Day Care Subsidy System in Canada*, Table 7, p. 16). (For more details see Appendix I.)

CHAPTER II

The National Strategy on Child Care: Funding Child Care Services

A. Introduction

The federal government's child care policy, which was announced in December 1987, consists of three elements: tax assistance to families with young children; a cost-sharing program with the provinces designed to create child care spaces; and a fund for special initiatives. The last two measures are directly connected with the development of child care services, and for this reason we discuss them together in this chapter.

The tax proposals are designed in part to address the problem of "affordability", that is, the cost of child care services. One of the measures, a proposed increase in the child tax credit for children aged 6 and under, is also intended to offer some assistance to parents who stay home to care for their children. We discuss affordability in this Chapter. Support for parents who are at home with their children is a separate issue, which we discuss in Chapter III.

B. The Federal Proposals for developing child care services

The government's proposals are set out in a document entitled *National Strategy on Child Care*. This document was published together with statements by the Minister of Health and Welfare, who is responsible for implementing the federal/provincial cost-sharing program; the Minister Responsible for the Status of Women; and the Minister of Employment and Immigration. In addition, the Honourable Jake Epp appeared before the full Senate Standing Committee on Science, Technology and Social Affairs in May 1988 and reported on the government's progress in implementing the National Strategy. The Minister's remarks, especially those in response to questions, expanded upon the government's initial statements in significant ways. In discussing the government's policy we consider all this material.

With respect to child care services, the government commits itself to a federal/provincial program to develop services, a separate federal Special Initiatives Fund – now called the Child Care Initiatives Fund - and a greater tax deduction for child care expenses for children aged 6 and under.

The aim of the federal/provincial program is to "(boost) the existing system from its current underdeveloped state into one that offers more accessible and affordable quality child care arrangements to Canadian families" (*National Strategy*, p. 4). In more specific terms the government proposes to help create 200,000 quality spaces throughout the country over the next seven years, and maintain the expanded system from then on. This is to be done by a series of measures.

First, the government intends to create a new set of funding arrangements for child care services. At present, the federal government shares some of the costs related to these services with the provinces under the Canada Assistance Plan (CAP). However it does so only in respect of the low-income families that use the services. (For a more detailed discussion of present federal government funding of child care services through the Canada Assistance Plan, see Appendix I.) Under the proposed program the federal government will share expenditures for direct capital and operating grants to services. We have been informed that the new arrangements, rather than CAP, will also be used to share expenditures for assistance to low-income families.

The new arrangements do not involve "open-ended" funding, as does the CAP program; that is, the government is not prepared to share an indefinite amount of expenditure. In the *National Strategy* the government commits itself to spending up to $3 billion for the federal/provincial program during the initial seven-year period. In subsequent years it will spend up to $1 billion for the entire child care program – including tax expenditures.

The *National Strategy* does not discuss the cost-sharing formula proposed for these new arrangements, other than to state that during the initial seven year period capital expenditures will be shared on a 75% (federal):25% basis. However, in his appearance before the Senate Standing Committee the Minister of Health and Welfare confirmed information that the government is prepared to cost-share the expenses of less developed provincial systems on a greater than 50%:50% basis, up to 90% of expenditures.

The government's position with respect to the various sectors which may be involved in the development of child care services is not entirely clear. As we have seen, in some

provinces after-school programs are provided by municipalities and school boards. Under the existing legislation (CAP), expenditures for educational services are not shared, and federal officials have taken the position that this limitation extends even to after-school programs which are run by school boards but are not part of the regular educational structure. The municipal ventures, on the other hand, are assisted through CAP. The *National Strategy* does not address the issue of whether the distinction between child care and educational services will be preserved under the new funding arrangements.

The *National Strategy* is clear, however, about the government's position regarding the private sector. Capital grants will be offered to non-profit services only, a measure which will help non-profit ventures compete with commercial ones on a more equal footing. Operating grants will be available to non-profit and commercial services alike.

These arrangements will be implemented through new federal legislation – the *Canada Child Care Act*. The introduction of new legislation is also a symbolic gesture. It signals the "basic social and economic priority" which the government accords the delivery of these services (*National Strategy*, p. 4).

The second element of the government's plans for child care services has to do with quality and standards. In the words of the *National Strategy*, the government "recognizes its responsibility to work with the provinces to ensure the development and implementation of the necessary standards for quality in a jointly funded child care system" (p. 5). We note with interest that the statement of the Honourable Benoit Bouchard, then Minister of Employment and Immigration, issued in connection with the announcement of the government's program, mentions that the government policy will offer substantial opportunities for training child care workers, an issue of relevance to quality. The Minister announced no ancillary measures in relation to training, but stated that his Department would review the need for training.

The last measure directly (though not solely) concerned with services is the establishment of a Fund for special child care initiatives. According to the *National Strategy* the proposed Fund is designed for "innovative research and development projects, and public awareness programs" (p. 3).

Given the examples of the projects which the government is prepared to include under this description, the Fund has been created to address almost all the problem areas which may not be affected by the federal/provincial program. This includes encouragement for the development of non-profit community-based services. It also includes the development of models for needed services which for various reasons the current system has

failed to produce (an issue clearly related to the development of non-profit services): services to rural communities, and services for children with special cultural needs, such as immigrant and native children, or for children of shift-workers.

As well, the government sees the Fund being used for projects related to child care initiatives which employers might take, such as sponsoring a day care centre in the workplace, paying for the costs of services obtained elsewhere, or establishing a registry of available services. Training for "in-home" care (this may include both care in the child's home by a "nanny", or care in the caregiver's home) is contemplated, as is research "on integrating children with special physical, emotional or intellectual needs into the wider system". Finally, the Fund expects to support projects for "family-oriented arrangements". This phrase seems to refer to arrangements which make it easier for parents to keep their jobs while spending significant amounts of what would ordinarily be work time with their children. (All examples are taken either from the *National Strategy*, p. 4 or from the Statement of the Honourable Barbara McDougall, p. 2.)

The government has committed $100 million to the Fund, which will be available for the initial seven-year period. Recipients will be groups or individuals, not the provinces. However, in his statement to the Standing Committee the Honourable Jake Epp made it clear that the provinces will somehow be involved in the administration of the Fund, in order to ensure that the projects which are selected are in tune with provincial planning.

C. Testimony Regarding the Federal/Provincial Program

Witnesses expressed many concerns and fears about the federal/provincial program. Some of these concerns related to the program as a whole, others centred around the implications of the program for particular provinces. We have grouped our witnesses' comments into three categories. The first has to do with the adequacy of the funds allocated to the program, and the fact that the program is not open-ended. The second involves issues relating to the quality of care: the need for standards, the need for trained caregivers and problems associated with the funding of commercial services. The third, which is related to the first two, concerns the role of the federal government in directing the program.

(i) Adequacy of Funding

Witnesses questioned the ability of the program to support the creation of 200,000 new spaces, given their own calculations regarding the cost of a space. They suggested that

wage increases are inevitable for child care workers, and that government projections could not have taken these increases into consideration:

> As I understand it, the federal government intends to provide 200,000 new spaces over the next seven years. According to my research, they have used the current figures for child care cost per space and have added in the cost of living over the next 10 years. If that is the formula they used, I do not believe they can develop 200,000 new spaces. Child care is in its infancy and has not plateaued yet. Child care workers receive salaries of $14,000 per year. As you are probably aware, that is the same amount paid to parking lot attendants and zookeepers. Salaries will have to go up significantly if we are to recognize child care work as a profession, that trained individuals must provide the care, and that children are valued. This situation is complicated by the fact that most child care workers are women and the income is very low. You have to build in the cost because the program is underfunded. I believe the cost over the next seven years will involve more than just the cost-of-living index. For example, if the salary at the entry level were where it should be, I believe that the government will only be able to create 100,000 new spaces under the program. (*Proceedings*, April 5, 1988, 1:42)

> ***

> Looking now at the basic carrying costs of care, such factors as pay equity have not been taken into account (by the federal government). Pay equity will play a significant role in those costs, even though currently the workers in most child care programs are not yet included in the pay equity legislation. There is also the cost of inflation in child care. I think we face a real problem... (*Proceedings*, April 12, 1988, 2:54)

Witnesses feared that the federal program was less generous than CAP. Some referred to studies which indicate the considerable capacity CAP has for funding child care services. For example, a background document for the House of Commons Special Committee on Child Care, entitled *Provincial Day Care Subsidy Systems in Canada*, concludes that if all provinces were to adopt the federal guidelines for granting subsidies under CAP, 72% of Canadian children under age 6 with working parents would be eligible for either a full or partial subsidy. According to the same document, under current provincial guidelines, which are all less generous than the federal guidelines, 43% of these children are eligible for some support, and only 15% in fact receive support. The witness from Manitoba spoke of a federal government study which estimated that funding for day care under CAP could reach $3.6 billion.

Witnesses also feared that the ceiling on the new program might lead provinces to reduce expenditures for fee subsidies to low income families.

> ...I would like to talk about the traditional view of child care as a service for low income families situated in the Canada Assistance Plan. The reality of this new funding (program) is that provinces such as Ontario will be forced to make hard choices... Assuming that there is a limit on the amount of money the provincial governments will get from this new plan, these governments will have to choose among the following: subsidies to low income or moderate income families; expansion of the system; providing direct funding to improve wages to keep trained people within the system, because presently they leave the system in droves; improving the quality of programs, which will have to be dealt with in different ways...
>
> The bottom line is, what will happen to single parents who are on low incomes, people who, without child care, will be forced out of the labour force, will be unable to enter the labour force or will be unable to get training? I am not suggesting that this is happening in Ontario... I am suggesting that the possibility of it happening is much greater. At present, it is possible for subsidies from the federal government to flow to the provinces because CAP is an open-ended program. Under this strategy, there is a limitation on the source of the money coming from the federal government, which presents a whole new ball game. (*Proceedings*, April 12, 1988, 2:55)

We would add a comment to what our witnesses said with respect to fee subsidies. The study referred to earlier, *Provincial Day Care Subsidies in Canada*, indicates that present expenditures for fee subsidies are not adequate. In some provinces, the income levels which determine eligibility are so low that few parents qualify for a subsidy. There is strong evidence to suggest that in all provinces, whatever the eligibility level, a significant number of eligible parents do not receive subsidies. Furthermore, in some provinces, there is a considerable difference between the full subsidy and the day care fee, so that parents receiving a full subsidy may not be fully subsidized. (For more details see Appendix I of this Report.)

Finally, as we indicated in Chapter I, witnesses from Quebec and Ontario were concerned that the ceiling on the program might penalize populous provinces with well-established programs or plans for expansion. In contrast, witnesses from the Atlantic provinces feared that their provinces would not be able to afford half of the expenditures of a program developed under the more generous cost-sharing formula of the first seven years.

(ii) Quality: National Standards; Training for Caregivers; Funding the Non-Profit Sector

Witnesses thought it obvious that a national policy for child care should attempt to provide an adequate service for all Canadian children. While they assumed that standards would vary from province to province, they expected the federal government to require provinces to have whatever regulations were necessary for good quality care, as well as to help provinces develop these regulations. Witnesses were, of course, aware that the federal government does not have the power to stipulate requirements which are so specific that they amount to interference with the administration of the provincial programs.

> We need a recognition of national standards that goes beyond the general statement we now have (in the *National Strategy*). In general, our position for some time has been that the federal government ... needs to take the lead and the initiative in this regard. The federal government needs to emphasize the fundamental necessity for a child care system that extends across the country. Regardless of where Canadians live, we should all be guaranteed some basic level of child care... (*Proceedings*, April 21, 1988, 3:22)

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> ...I imagine that there would be a federal framework similar to the *Canada Health Act*. I think "standards" is a confusing word. I see "standards" to mean a specific and discrete item, but when one talks about criteria – which is a better way of framing it - I imagine that the federal government would have established some criteria that would imply what the provincial standards should look like.
>
> ...
>
> ...I would go as far as one could constitutionally in having federal child care standards in terms of staff – child ratios, training and things of that nature. (*Proceedings*, April 12, 1988, 2:62)

Because there are problems with monitoring and enforcing standards which do exist, witnesses felt that there should be federal direction in this area as well.

> ...There are insufficient consultants (four for the entire province of New Brunswick, some of whom fill casual positions) to ensure that regulations are properly enforced. One visit and one spot check per year are inadequate to ensure that minimum standards of care are met. (*Proceedings*, April 5, 1988, 1A:5)

Witnesses thought that a national program should address issues relevant to the training of child care workers. Our witness from Manitoba, who has been involved in

running a number of day care centres, remarked on the skills which caregivers generally develop after a two-year program:

> We notice a difference in their flexibility with the children, their programming, their behaviour-management policies. (*Proceedings*, April 5, 1988, 1:52)

She also pointed out that it is the workers with a two-year diploma or greater qualifications who are likely to make a long-term commitment to child care.

Equally important was what the demand for training entails. First and foremost for our witnesses, training implies higher salaries. They emphasized that salaries are low in comparison to most other work, and that this has resulted in workers leaving the field. As well, there are no financial incentives to acquire more training.

> Another tiny example, but a relatively important one, about the staffing of programs is that we do try to require trained people in our province, because the regulations read that way even though they are not policed very well. The basic training consists of approximately 18 months of post-secondary education. If a person wishes to work in the toddler or infant centres, that person is required to take an extra year's training. If that person then ends up working in the toddler program, that person can be guaranteed to earn less than those who have received less training (and work with pre-schoolers)... Because there is no other funding but the parent fee, even if the parent fee is doubled for children under the age of three, we still end up not being able to pay those with a higher education more money.
>
> We are trying to hire in that category right now and we cannot get trained staff, and we are one of the best day care centres in the province. No one is being encouraged to go into the field. (*Proceedings*, April 21, 1988, 3:13-14)
>
> ***
>
> Concerning the quality issue, the main factor we see now is the salaries issue, in that in Nova Scotia the regulations provide for basic quality protection. But this issue, currently centering mainly around wages for child care workers, is one that both the Nova Scotia government and the child care community have agreed upon. Parents on waiting lists are more interested in spaces. As one researcher clearly put it, "spaces are sexy." However, the wage issue does not go away and is not addressed by the (federal) strategy. (*Proceedings*, April 5, 1988, 1:21)

Secondly, the demand for training makes it necessary to develop training programs. Some provinces do not offer even a basic child care program. Where programs do exist, they may not be easily accessible to child care workers. In many cases, caregivers cannot afford

to take time off to attend courses, and must do so after a full working day. Subsidies for training would help in this situation, but they are scarce.

> ... there is not any full-time training in the Yukon at the moment. A projected program is to be included in the Yukon college in January of 1989. The course-by-course training that is currently available would take 10 years to complete. That means that anyone in day care now would have to spend their evenings and their weekends doing homework and on the course. There are no funds available to subsidize these people to go to school. (*Proceedings*, April 21, 1988, 3:28)

Finally, witnesses raised a number of concerns about the proposal to allow the commercial sector to access federal government funds through the cost-sharing of operating grants. They suggested that it is not possible to make a profit by providing child care services without compromising quality:

> ... quality services are very expensive. Complying with the regulations is also a very costly process. Parents contribute very little money (towards the cost of care), but they can't really pay more than they do now. To ensure quality services, given the revenue they have, day care centres must make a choice. Either they pay their staff minimum wage and contend with a constant turnover and very little stability or they hire unqualified people so they can pay less money. They cheat a bit on the (staff/child) ratios in order to make a profit. Something has to give somewhere. No one has yet to show me how to earn a profit by operating a centre which boasts services of impeccable quality. (*Proceedings*, May 3, 1988, 4:18)

The same point was made by a witness who runs an in-home day care centre—a nominally for-profit venture:

> (These) private, in-home day care centres are the backbone of child care in New Brunswick. They are located in residential neighbourhood settings, and that has appeal for the many working parents who want their children to stay in their own neighbourhood environment. These centres have great difficulty operating on a break-even basis. For most operators, profit is unheard of.
>
> ...
>
> It may be necessary to provide subsidization simply to ensure their survival. I am referring to the small family day care. High quality and profitability do not go hand in hand. I think this should be underlined... It is important that facilities receiving public funding must meet quality care standards, provide public disclosures and are accountable for their financial situations. They must, as well, have an open style of management such as parent participation... (*Proceedings*, April 5, 1988, 1:8)

Witnesses mentioned the importance of parent participation in the running of child care services, which for most of them was incompatible with commercial ownership. One witness referred to the distinction between the "objective" elements of quality, which can be regulated, and the "subjective" elements, which cannot. Training for caregivers, child/staff ratios, hygiene and cleanliness all belong in the first category. In the second are to be found the "emotional atmosphere", the program content, the relations between staff and parents and the transmission of values:

> ... everything, in short, that isn't quantifiable and can't be written into the (regulations), but which in fact makes the difference between a good service and a service. (*Proceedings*, May 3, 1988, 4:11)

Parent direction and management was proposed as the most likely vehicle for supplying these unquantifiable determinants of quality.

A third concern was that the federal government was not giving enough encouragement to the non-profit sector, an omission which could prevent the expansion of services.

> I have included a couple of possible scenarios concerning space development over the next seven years.
>
> First, scenario one. Given the likelihood that both the commercial and the voluntary sector will be able to access government assistance in the forms of parental subsidies, the commercial sector will move faster and into the attractive demographic clusters. What might these be? Clearly, they will be those that are the easiest to serve, with high-population densities and middle (income) groups, leaving the difficult and expensive areas to the voluntary sector.
>
> A strength, if there is one at all in current Nova Scotian child care, is its relatively non-ghettoized nature. The centres with subsidized spaces also have varying numbers of non-subsidized children, guaranteeing that poor kids are not completely segregated from the more fortunate. This mix would probably diminish under the new model, with the more affluent children siphoned off by a reverse magnet school approach.
>
> The voluntary sector, which in the child care world has practically disappeared in Nova Scotia in the last 10 years because of the freeze on the development of more subsidized centres and spaces, will be a long time in revitalizing. Will the likeliest areas and the limited spaces disappear before this sector regroups? Will the realization that its form – that is, non-profit child care – gets no special status, such as access to subsidization, ... destroy this service mode? This is certainly a possibility in Nova Scotia. (*Proceedings*, April 5, 1988, 1:20-21)

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> ...It is more expensive to provide quality day care to kids who are malnourished, who do not get decent dental care or who come from families that are in disarray. I would expect that people in such areas would not attract the entrepreneurial impulse quite so quickly. (*Proceedings*, April 5, 1988, 1:26)

(iii) The Federal Role

Underlying all these concerns was the desire for stronger leadership from the federal government in the development of a national child care system. Witnesses wanted funding to be adequate, but they also wanted the federal government to ensure that provinces had standards necessary for good quality care, that caregivers were properly trained and adequately paid, and that services were owned and managed by those who were interested in children rather than profit.

In addition, witnesses remarked on the gap between the objective of increasing spaces and the actions necessary to achieve the objective – a gap which the *National Strategy* does not bridge. They stressed that child care services should not be allowed to grow willy-nilly in the absence of proper planning to match services to needs.

> I then speak of a "necessary space" scenario, which would include real needs assessments, non-profit auspices (only) getting monetary support ..., and targeted geographical areas; some planning by a government-user-provider group is then surely appropriate. Some of the federal funding needs to be allocated for this purpose as well as for simply more space. (*Proceedings*, April 5, 1988, 1:21)

Witnesses from British Columbia raised another issue relevant to the role of the federal government. They noted that the government of that province had indicated its intention not to spend money on operating grants, but to allocate all expenditures to capital grants and fee subsidies for low-income parents. They added that current subsidy arrangements were far from being able to support existing centre spaces, and that many centres were in a precarious financial position. They predicted that this situation would continue even with an increased budget for fee subsidies, and that centres would close and open again in order to obtain capital funding, which they would in effect use to cover operating expenses. These witnesses were making two points. First, that no new spaces would in fact be created as a result of the capital expenditure, despite the federal government's efforts. Second, that it was as important to improve the condition of the

existing system as to increase spaces, an objective which the *National Strategy* does not discuss.

> If we do not stabilize what exists, those facilities will choose to close and open up again with the start-up funds... I would like to see capital funds that relate not only to new spaces but also to strengthening and repairing existing spaces... If a new facility opens up down the street, it will sound the death knell of those facilities that already exist. We need to keep the existing supply before we add to it. Then we need to add to it in an organized way that responds to the needs of the community. That does not mean sending out little questionnaires to the licensing people, as the provincial government has done, asking that they find out what the fees are in their area and whether there are waiting lists. That is the questionnaire they call a needs assessment... (The second priority, then,) is policy planning and needs assessment. (*Proceedings*, April 21, 1988, 3:21-22)

Most of our witnesses had strongly supported a new funding arrangement and new legislation for the development of child care services. However, they now prefer the Canada Assistance Plan as an interim measure, unless the federal proposals are changed in a way that would satisfy the concerns which they raise.

D. The Subcommittee's Response to the Testimony

The federal government's proposals were intended to initiate a round of negotiations with the provinces and the territories. The outcome of the negotiations will be a set of federal/provincial agreements and, on the federal side, enabling legislation which Parliament must examine and pass. The purpose of this Report is not to evaluate the initial federal proposals. Evaluation is appropriate when the agreements have been signed and legislation is introduced. In this section of the Report, we raise issues which must be addressed in examining the legislation and the policy which it incorporates.

Is the Funding Adequate?

Our witnesses' concerns about the adequacy of funding are important. But there are problems with the arguments which they present. For example, witnesses pointed to the potential of CAP to generate $3. 6 billion for day care services. However, in his appearance before the full Standing Committee, the Minister of Health and Welfare made it clear that one arrives at this figure only by making a number of assumptions. First, all provinces are expected to raise the income levels at which parents qualify for fee subsidies to the levels permitted by the federal government. Second, provinces are assumed to increase their child

care expenditures to allow subsidization for all parents who qualify. Third, the services which parents need are supposed to exist, and all parents decide to use them rather than rely on private arrangements such as relatives or nannies. (Proceedings of the Standing Senate Committee on Social Affairs, Science and Technology, First proceedings on: The Study of Child Care, 7:13-14.)

But the facts belie these assumptions. For various reasons, the provinces do not currently use CAP to its fullest potential. What, then, is the force of the argument that CAP is richer than the proposed program?

Witnesses suggested that the new program should receive at least as much money as would have been available under CAP. What is the right way to determine this amount? One witness suggested that for the "boost" period it should be assumed that expenditures would increase at the same rate as the previous seven years (Second proceedings, 2:21, Alberta). However, it is equally reasonable to assume that budgets in some provinces would not continue to grow at their previous rate in the absence of a federal initiative. One would also have to make a number of assumptions about the cost of care. Would it go up only by the rate of inflation? Would it be affected by an increased demand for child care services? What would be the impact of provincial salary enhancement grants?

Finally, witnesses expressed concern about the proposed ceiling on the federal government's contribution. We are not convinced that the existence of a ceiling is by itself a reason to reject the federal proposal. The present funding arrangements for child care services are open-ended because they are a part of CAP, a program designed to provide support for those with little or no earnings. It is hard to imagine the basis on which we as a society could reasonably set a ceiling on this kind of program; how could we ever distinguish among those eligible to benefit from it?

The objectives of a national child care initiative are not those of CAP. The aim of the child care program is to create a system of services across Canada, a system which does not yet exist. This endeavour requires the cooperation of provincial governments. Since the provinces are at different stages of development, it is reasonable to expect the program to proceed in stages. This process of building a system is not necessarily inconsistent with funding ceilings.

The real concern with respect to funding for the new program is not whether the provinces could have received more money under CAP. It is whether the money which the federal government commits to the program will be enough to accomplish the objectives set for each stage of development. In this context, the existence of a funding ceiling does pose

difficult practical problems. Witnesses predicted that some provinces would be prepared to develop more quickly than the federal government had projected. Subsequent events have proved them right. Should the federal government fund all proposals which meet program objectives regardless of the cost of these programs, as our witnesses propose? If not, how should the total budget for the federal program be divided so as to treat each province fairly and, at the same time, allow all provinces to improve and expand their services?

Will Standards Be Set and Enforced?

There can be no compromise between the need to increase spaces and the need to have good services. Priority must be given to maintaining and developing services of adequate quality across Canada. This goal cannot be achieved without minimum national standards.

Will provinces commit themselves to developing, implementing and enforcing reasonable standards concerning training for caregivers, child/caregiver ratios and group size, programming and health and safety? Will the commitment be embodied in the federal legislation?

By a commitment to minimum standards we mean that provinces agree to devise standards and produce a timetable for implementing and enforcing them. By reasonable standards with respect to training or the relationship between children and caregivers, we mean standards which are compatible with current knowledge of child development. For example, most studies of infants – children under the age of two years – indicate that they need to be cared for by someone who is continually available, attentive and responsive to them. Among other things, this suggests that caregiver/child ratios must be low: one person cannot be expected to be properly responsive to seven crying babies. Of course, in general, what is known about child development will not dictate a single set of standards. Individual provinces will then have to determine what is reasonable.

What Provisions Will There Be For Training Caregivers?

We support our witnesses' position that training is an essential component of quality. Child care workers must receive adequate training if they are to care for children properly. Given that caregivers are expected to be trained and child care services are expected to expand, and given the introduction of pay equity legislation in some provinces, it is likely that expenditures for caregivers' salaries will rise significantly.

How will the federal/provincial arrangements promote training? What actions will governments be prepared to take to ensure that child care workers are well trained? Will federal and provincial governments take salary increases into consideration in determining funding arrangements?

How Will Standards Be Implemented?

It is unlikely that provinces will be in a position to implement all the necessary standards when they sign an agreement with the federal government. Requirements for trained caregivers can only be met after courses have been introduced and people have attended them. Proper monitoring and enforcement and growing salaries will necessitate increased expenditure for services. It is reasonable to expect provinces to absorb the additional costs gradually. Nonetheless, provinces could commit themselves to certain targets with respect to standards. These targets could differ from province to province, depending on the stage of development which services had reached.

Will provinces be asked to commit themselves to achieving specific objectives regarding standards in the initial period? What other assurance will there be that provinces will set and enforce standards?

Will Growth in the For-Profit Sector Be Contained, and Growth in the Non-Profit Sector Promoted?

Parents and others in the community who are concerned about children should be giving direction to caregivers, whether they work in centres or in their own homes. It is often said that standards and regulations cannot ensure quality. We agree. It is committed people who breathe life into regulations. In the case of child care, the commitment is most likely to come from those who have an interest in children which is independent of their livelihood.

From this it follows that a child care system should be developed by the not-for-profit rather than the commercial sector. We stress that by "not-for-profit" we are not referring to just any corporation without share capital which provides child care services; but rather to an organization whose board of directors is made up of parents and others who care about what happens to the children whom they are serving.

We acknowledge the dedication and energy of all those women (and they are mostly women) who, with no support, have established services in places where none would have existed otherwise. While they are commercial operators in terms of organization, they are genuinely interested in providing quality services, and often do so with very little, if any, cash benefit to themselves. However, if one is interested in creating a real child care system, the time has come to use this energy within a non-profit structure. It is not likely that the prospect of working with a parent board would deter most of those women or men who, in the past, would have established a service on their own. Clearly, our witnesses who are commercial operators do not expect a significant monetary return on their capital. A national program which encourages the non-profit sector would provide necessary support for the efforts of those who want to care for children, and would ensure that they receive adequate compensation.

In short, governments should not be funding new commercial services through capital or operating grants, or fee subsidies, or by any other means. However, a case may be made for funding existing services, which the province of Ontario has chosen to do. For-profit operators are an important part of the current system. If funding were denied them, a significant number of spaces might be removed from the system. It is also unfair to change the rules under which for-profit owners reasonably expected to operate. Of course, children should not suffer as a result of misplaced concern for the commercial sector. However, if standards are in place and strictly enforced, children should not suffer. This may be an uneasy compromise. But it is a compromise which will result in a better child care system for the future.

It is not easy to build a public service from the "grass roots". Should the federal government limit the cost-sharing of expenditures for commercial services to existing services? Will the federal/provincial agreements incorporate other kinds of incentives designed to encourage the growth of the non-profit sector?

There has been much debate over whether and how the commercial sector should be subsidized. Yet there are no data which would allow the independent evaluation or comparison of the quality of commercial and non-profit services. Will this issue be addressed by the federal/ provincial arrangements?

Will Fee Subsidies Be Improved?

It is clear that the federal/provincial program should directly address the issue of fee subsidies. All parents at the lowest end of the income scale in each province should receive a subsidy for the full cost of care. Eligibility levels should be raised to provide an adequate subsidy for parents who are not poor, but who nonetheless find it difficult to pay the full price of care.

These changes cannot take place overnight. But it is not unreasonable to work toward these goals in stages. Will the federal/provincial agreements incorporate reasonable targets for improving the adequacy and coverage of subsidies?

How Will New Spaces Be Developed?

The federal/provincial program should address the need for more spaces. However, the number of spaces which the program initially creates is not the only concern. The development of spaces should be subject to some control in order to ensure that all necessary services are provided. Moreover, expansion is not the only objective of a child care program. Provinces must also improve the quality and affordability of services in ways suggested earlier.

What is it reasonable to ask of provinces with respect to increasing spaces? Should provinces agree to provide a significant number of additional spaces? What is significant might differ for each province, and would depend on such factors as the need for additional services, which could be determined by a needs assessment by the province, and on proposed expenditures for other aspects of the provincial program.

What is the Role of the Federal Government?

We agree with witnesses who stressed the importance of federal direction in the area of child care. The role of the federal government should not be merely to facilitate the maintenance and expansion of current arrangements. These arrangements are inadequate, and "more of the same" will not solve the problem. What is needed are child care programs across Canada of reasonable quality available to all parents who want them at a cost which they can afford. This objective cannot be reached unless all provinces agree to develop services to this end. The federal government is responsible for achieving the required consensus.

Provinces are at different stages with respect to child care policies. This means that the federal initiative must support the evolution of relatively new programs as well as the development of more established ones. Moreover, child care programs are costly, and governments must be fiscally responsible. Thus the federal initiative cannot be expected to create a fully developed child care system in seven years. But it can be expected to create a base from which such a system can grow.

The statements in the *National Strategy* are sometimes compared unfavourably with the provisions of the *Canada Health Act*. The comparison is unfair. The *Canada Health Act* is the culmination of a process which began almost 40 years earlier. The federal child care program is in its infancy. However, the history of the development of Canada's health care system does yield valuable lessons for those interested in the evolution of a child care system. Throughout the process, the federal government managed to give direction while respecting the constitutional position of the provinces. Many of the financial arrangements the federal government negotiated during that time were not essentially different from those which could be proposed with respect to child care. Surely, what was done once can be done again.

It follows that the federal government should offer financial assistance to the provinces on conditions. What conditions will be incorporated into the federal/provincial agreements or into the forthcoming legislation?

What conditions is it reasonable to attach to federal funding? Should provinces be required to formulate plans for the development of child care services? Should they be required to set targets for implementing standards, improving fee subsidies and increasing spaces? Should provinces be asked to evaluate their programs and to collect data on a basis which permits comparative evaluation? Should the federal government attempt to constrain the development of commercial services? What, if any, conditions should be put into legislation at this time, and what should be left to individual federal/provincial agreements?

We see a significant federal role in directing the development of child care programs across Canada. But it is the provinces which implement the programs. We wonder whether it would not be beneficial to have a mechanism that would allow provinces to consult with each other and with the federal government on child care issues. The Council of Ministers of Education is an example of this kind of forum.

Consultation could result in a concerted effort to develop programs. This, in turn, would help in the planning of federal funding arrangements. It could also serve to spread information about new initiatives. Finally, consultation would not only encourage the development of services within individual provinces, but would itself promote the development of a national child care system.

E. The Child Care Initiatives Fund

Witnesses acknowledged the need for such a Fund and commended the government for having introduced the measure. At the same time, however, they raised some concerns about the Fund. Many wondered whether the money was to be distributed equitably across Canada, or whether it was to be allocated on a "first come first served" basis. One witness pointed out that those most likely to think of novel and effective ways of providing services not now available were the parents who needed them; at the same time, they were the least likely to know about the Fund and the least adept at applying for grants. She proposed that the government make an effort to tap this resource rather than rely on more familiar groups. She also offered suggestions as to how this might be done.

> For instance, a village on the north shore of Cape Breton Island might have the beginnings of an idea that could be developed with technical support into an appropriate, responsible proposal that would access real dollars. Perhaps they could call it a pilot demonstration, and perhaps it could be replicated in other places. It would require that some of the moneys in the special initiatives part of the program be made available for this kind of consultative or support structure, to provide troubleshooting services, and so forth. After seven years, we might have some models in those unusual areas... (*Proceedings*, April 5, 1988, 1:60)

While we agree with the concerns expressed by our witnesses, we have additional comments and reservations. Given the variety of projects which the Fund can support, there seems to be a need to establish priorities. This need became even clearer after we heard the Minister of Health and Welfare speak on the subject of the government's commitment to the development of child care services within native communities. This is an area of special concern to us, although we decided not to address native services in this Report because we felt the subject merited separate treatment.

The Minister pointed out that the government did not yet have "a clear understanding of what 'child care' might entail within the cultural context of our Native communities, what form its delivery might take, and what the needs of different communities might be" (Standing Senate Committee on Social Affairs, Science and

Technology, *Proceedings*, May 10, 1988, – *The Study on Child Care*, 7:9). We believe that a portion of the Fund should be assigned to native child care, to ensure that the required programs are developed and funding requests are not rejected because others have submitted their applications first.

We would favour another allocation directed toward encouraging the efforts of the non-profit sector. We agree with our witness from Nova Scotia, who suggested that the government promote use of the Fund by parent and community groups, and not simply rely on the proposals of groups skilled in the art of applying for grants.

Initiatives have already been developed in a number of areas independently of the Fund – in particular, services for rural areas and employer arrangements related to child care. We liked the suggestion, also offered by our witness from Nova Scotia, that the government encourage competition among projects which address similar needs. One way to do this would be to award funds to projects only if the sponsors could interest other groups in using their model. This, in turn, would involve the setting up of some sort of exchange where people could find out about the projects and decide what they could use.

The flexibility and openness of the Child Care Initiatives Fund give rise to a number of questions. How will priorities for funding be set? Will a specific amount be designated for native communities in particular? Will the Fund provide support to help groups formulate grant proposals? What mechanisms for information exchange have been built into the process?

Finally, we believe that support for "family-oriented arrangements", that is, measures for parents who take care of their own children, deserves separate consideration. We discuss this further in the next chapter.

CHAPTER III

The National Strategy on Child Care: Support for Parents who Spend Significant Amounts of Time out of the Labour Force

One of the goals of the National Strategy as a whole is to enhance parental choice with respect to child care. There are parents who choose to stay home either full-time or part-time to care for their children. Some may never use child care services, some may. Parents who work part-time may arrange their work schedules in a way which allows them to care for their children without the help of another person. Parents who are not in the labour force may enrol their children in some form of group activity. When children are between ages 4 and 6 these services may be run by the school board as nursery or kindergarten programs. In some provinces, however, these services are considered to be day care and are regulated and funded as such.

There are no measures in the *National Strategy* which are targeted exclusively to parents who do not use child care services. However, one of the tax measures, a proposed increase to the child tax credit of $200 per year, was designed to benefit this group of parents. In speaking to the full Standing Committee in May 1987, the Honourable Jake Epp made the following remarks in response to a question about the effectiveness of this measure in relation to the choice to stay home:

> I have never pretended that the child tax credit ... (was a) compensation for mothers who stayed at home. I have never characterized it in that way, but I thought it was important that the government should give recognition to that area of child care as against simply coming in with a formal child day care system as advocated by some. (Standing Senate Committee on Social Affairs, Science and Technology, *First proceedings on the Study on Child Care*, May 10, 1988, 7:27)

Our witnesses representing parents who do not use child care services felt that much more could be done to support their choice. They did not propose many specific measures, because they had neither the time nor the expertise to develop and evaluate them. They did ask that tax measures regarding child care affect parents who use services and those who do not in comparable ways. They pointed out that the increase in the child care expense

deduction would benefit middle or higher income parents in the labour force, and that the benefit would increase with income; by contrast the increase in the child tax credit would only benefit lower income parents who were at home. Our witnesses also proposed that the tax system be neutral as between two-earner and single-earner couples. Finally, they suggested that the Federal Initiative should give "equitable benefits to all parents to use as they choose" and that the benefits be "tied to financial need". Another witness who wrote to us proposed that for every dollar spent on child care services a dollar be available to parents at home to use as they wish.

These parents raise an important question which does not have an easy answer: How can parents reconcile labour force participation with child care? There was a time when this was not a problem. Mothers took care of children and, unless the family was very poor, had no significant contact with the labour force. Fathers worked and were not expected to be involved in raising children in the same way as mothers. The tax system, family income support systems and the labour force were designed to fit this way of life.

This is another time. Any child care policy must assume that both mothers and fathers will have a significant labour force attachment over the course of their lifetimes, and that both will have a significant part to play in raising their children. In this context we see support for parents at home in terms of policies which make it easier for them to move in and out of the labour force. This might include some form of income assistance.

There are a number of important considerations regarding the care of very young children. Our witnesses felt strongly that parents are the best people to care for infants – children up to two years old. Most parents would like to be given more time with their infants than they are now. As well the cost of infant child care is great: desirable staff/child ratios are small, and it is important to keep infants in small groups to avoid the spread of disease. These considerations point to an enhanced maternity benefit program of the sort proposed by the Katie Cooke Task Force or the House of Commons Special Committee on Child Care.

However, income assistance cannot be the only answer. One cannot compensate at-home parents forever. Somehow the workforce must be made more accommodating to parents. There have been any number of proposals as to how this might be done: job-sharing, flexible work hours, family responsibility leave. Until governments at both levels and leaders in the business world work seriously to implement some of these proposals, there can be no more than token policies for parents at home.

For these reasons the proposal that the government give comparable benefits to parents at home and parents in the workforce is perhaps not the best way to approach the issue. Parents who need day care services should have them. But there should also be policies for parents who work and want to spend a significant amount of time with their children. The federal and provincial governments are responsible for developing these policies. Governments at both levels, businesses, and parents themselves should be prepared to pay the costs of these policies.

We have not examined the tax proposals which are a part of the National Strategy. However, the suggestions of our witnesses with respect to the neutrality of the tax system have merit, and should be seriously considered by the government.

APPENDIX I

The Day Care Subsidy Under the Canada Assistance Plan

A. The Legislation

According to the Preamble of the *Canada Assistance Plan* (CAP), the legislation recognizes a federal responsibility to help provide "adequate assistance to and in respect of persons in need" and prevent and remove "the cause of poverty and dependence on public assistance". The Preamble goes on to state the purpose of the legislation: to encourage "the further development and extension of assistance and welfare services programs throughout Canada by sharing more fully with the provinces in the costs thereof".

The Preamble draws a distinction between assistance and prevention, and between assistance and welfare services. These distinctions are repeated in the body of the Act. The Act defines two kinds of provincial expenditure which may be cost-shared: expenditures for assistance to persons in need, and expenditures for welfare services for those in need or those "who are likely to become persons in need".

Assistance is defined as "aid in any form" for the purpose of providing any of the needs enumerated in the Act. These include food, shelter, clothing and other basic necessities. However, they also include certain welfare services purchased by or at the request of a provincially approved agency. These services are not set out in the Act, but are prescribed by regulation. No conditions are placed on the nature of the service which may be provided. Day care is one of the prescribed services. Others include rehabilitation services, casework, counselling and homemaker services.

As well, the Act requires a province to administer a needs test in order to determine whether a person is in need, and therefore eligible for assistance. This involves obtaining a statement of the person's income and expenses.

The provisions with respect to welfare services are different. As a condition for the cost-sharing of these expenditures, the services must be provided by a "provincially approved agency". That term has been interpreted to exclude for-profit services.

Unlike the phrase "person in need", the term "person likely to be in need" is not defined. The definition has been left to federal officials. Over the years two different sets of guidelines have been issued by the Department of Health and Welfare. They will be discussed in detail in the next section. Both sets of guidelines have allowed provinces to administer income tests to determine likelihood of need. This means that eligibility does not have to be determined by requiring parents to reveal the details of their financial circumstances, but simply by ensuring that their total income falls below certain levels.

Costs which relate to the provision of assistance or welfare services are shareable on a 50%-50% basis. Most costs which one might think of including in this description are shareable, though some are not. What is very important, the program is open-ended; that is, there are no federal limits on total provincial expenditure.

There are two types of shareable cost under CAP. The fee charged for a welfare service is shareable under the assistance provisions. The portion of the total expenditure for a welfare service which can be attributed to a user who is likely to be in need is also shareable, under the welfare services provisions. However in this case expenditures for direct capital expenses, such as the cost of buying property in which the service is housed, are excluded.

With respect to day care services, the effect of these rather complicated provisions is that the government will cost-share any provincial subsidies for day care fees so long as the parents are given a needs test. In that case the services may be provided by for-profit or non-profit operators. However, if a province wants to administer an income test, the parent must use a not-for-profit service. In neither case are provinces required to regulate day care services.

As well, the federal government will share the portion of provincial expenditures for non-profit services which can be ascribed to low-income users, whether these expenditures are made through a fee subsidy program or any other funding arrangement. There are few restrictions on allowable expenditures by non-profit day care services. Regulations specifically include as allowable expenditures salaries and benefits, research and consultation for the benefit of day care staff, registration fees for conferences which staff may attend, fees for training of staff, and even such capital costs as depreciation on the building, and the costs of play equipment and materials used by the service.

B. Likelihood of Need Guidelines for Welfare Services

In 1974 the Department of Health and Welfare established a set of policy guidelines relating to the provision of day care services under CAP. The guidelines described two sets

of criteria which parents would have to meet if expenditures were to be shared. The first had to do with the need for the service. To be eligible parents had to be:

(i) single parents who were working, taking a training or rehabilitation program or undergoing medical treatment; or

(ii) a two-parent family where both parents were working or one was working and the other was taking a training program, etc.; or

(iii) either a single or two-parent family where a social welfare agency referred the child to day care for the child's protection or developmental benefit.

The second set of criteria had to do with financial ability to pay. This was to be determined by a needs test or an income test, or a combination of both. Parents could be partially subsidized, but no parent could receive any subsidy if the family income was greater than twice the income at which parents were eligible for a full subsidy. There were other restrictions on the income test which need not be described here. (Canada, Health and Welfare Canada, *Policy Guidelines Relating to the Provision of Day Care Services for Children Under the Canada Assistance Plan*, Ottawa: March 1974, pp. 1-2.)

In 1983 the Department published new likelihood of need guidelines, applicable to all welfare services. The intention of the guidelines was to extend support to a broader range of families. These guidelines are still in effect. The guidelines eliminate the "social need" criteria. Also, instead of imposing specific conditions on provincial income tests, they

describe a set of federal income levels which act as a ceiling on provincial tests. The federal levels are based on public pension benefits and, like these benefits, are indexed quarterly.

Some studies have been done on the potential the new federal guidelines have to affect the provision of day care services. One is an unpublished study undertaken by the staff of the Department of Health and Welfare. The study was referred to by one of the Subcommittee's witnesses during its hearings, and was mentioned by the Honourable Jake Epp in his presentation before the full Committee in May 1988. According to this document if the provinces all adopted the federal government income levels, and actually subsidized all eligible parents with preschool children (including single-earner couples), the federal government's share of the expenditures would be around $3.6 billion (in 1985 dollars). This calculation also has consequences for the entire CAP program, since expenditures for the whole program amounted to a little over $4 billion in fiscal year 1986-87.

A background document prepared for the House of Commons Special Committee on Child Care tried to determine how many preschool children of working parents (this excludes single-earner couples, among others) would be eligible for subsidy if the provinces adopted the federal levels. The study estimated that across Canada 46% of these children would be eligible for full subsidy and 72% would be eligible for partial subsidy. (*Provincial Day Care Subsidy Systems in Canada*, A Background Document produced by the Staff of the Special Committee on Child Care, 1987, Table 9, p. 21.)

In fact the provinces' income eligibility levels for social services in general, and for day care in particular, are far below the federal guidelines. According to the same background study, in 1987 only 19% of preschool children were eligible for full subsidy under the various provincial requirements (46% under the federal levels) and only 43% were eligible for partial subsidy (72% under the federal levels). (*Provincial Day Care Subsidy Systems in Canada*, Tables 7-8, pp. 16-18.)

C. Provincial Day Care Subsidy Programs

One cannot say that all provinces have tailored their programs to the federal legislation. For example, as we indicate in our Report, there is a significant number of for-profit services in many provinces. Yet only Ontario and the Northwest Territories impose a needs test on parents who apply for a day care subsidy. As a result some provinces will subsidize parents who use for-profit services, even though they cannot share the cost with the federal government.

Most provinces retain some form of the "needs" criteria of the earlier guidelines. As we have already remarked, all have chosen not to move to the federal income levels. The provinces vary, though, in how close they come to these levels. Under the federal guidelines (January – March 1987) a single-parent family with one child could receive a full subsidy if the parent's after-tax income was about $24,000 or less. In Newfoundland, that single parent could not earn more than about $9,000 net; in Quebec, $12, 500; in Saskatchewan, $20,000 (gross). Some municipalities in Ontario do approach the federal guidelines. In those cities a single parent with income less than $23,500 would qualify. (*Provincial Day Care Subsidy Systems in Canada*, Tables 1-2, pp. 3-6.)

Provinces also vary in the way their day care subsidy relates to the price of care. In half of the provinces the full subsidy is equal to the day care fee. In four provinces the full subsidy may be considerably less than the fee. The authors of *Provincial Day Care Subsidy Systems in Canada* estimated that on average parents in Quebec who are fully subsidized have to pay an additional $835 a year for centre care; those in Saskatchewan, $1,144; and those in B.C., $976. (Table 5, p. 12).

The authors of the background document also tried to judge the effectiveness of the provincial subsidy systems. One of their most important findings was that there are very little data on which to make any determination:

> ... information necessary to make good and detailed judgments is not collected. For instance, we cannot answer the most basic question: How many children of what ages, and family types, in what income brackets receive full and partial day care subsidy in each province and territory?
>
> ...
>
> Similarly there is little information/studies on whether and by how much day care subsidies have allowed women to stay in the labour force or in training during their children's early years and what impact this has had on family functioning and family income levels both immediate and longer run. Equally, there is a lack of information about the specific objectives of the provincial and territorial day care subsidy systems. (*Provincial Day Care Subsidy Systems in Canada*, p. 13)

(We have learned that Ontario has just recently completed a study on who receives subsidy in that province.)

However, on the basis of the available information the authors came to at least one rather startling conclusion: Across the country approximately 5% of preschool children of working parents are fully subsidized, with slight variations from province to province. In terms of the provinces' own income guidelines, 29% of the children who are eligible for subsidy actually receive it. (*Provincial Day Care Subsidy Systems in Canada*, p. 15, and Table 7, p. 16)

D. The CAP Day Care Subsidy/The Federal Government's Child Care Proposals

Chapter I pointed out that there are a number of provinces whose day care programs extend beyond a subsidy to low-income parents. These provinces give direct grants to services which are not dependent on the income of the users. If these grants cover operating costs, (salary enhancement grants, for example, or general operating subsidies) some, but not all, of the expenditure can be shared through CAP. Grants for start-up and capital costs cannot be shared at all. The federal proposal is far more flexible, and would allow the federal government to share in the total cost of additional funding initiatives.

The federal proposal would eliminate the distinction between for-profit and non-profit services, which eases the burden for most provinces. The proposal would also allow for a greater than 50%-50% cost-sharing in the case of some provinces. Of course, the federal proposal does not retain the open-endedness of CAP.

APPENDIX II

Implementing the National Strategy - The Legislative Process

A. The Legislation

According to the *National Strategy* the forthcoming Canada Child Care Act "will establish a new legislative framework for treating child care as a basic social and economic priority (p. 4)". Clearly the Act will contain funding provisions. Like the Canada Assistance Plan the Act will enable the federal government to make cost-sharing agreements with each province. As well, the Act will probably set out the kinds of expenditures which the federal government agrees to share. We know from the *National Strategy* that these will include expenditures for direct capital and operating grants to services.

We would also expect the legislation to describe the objectives which the funding arrangements are designed to support. However, we do not see the objectives of a new child care act playing the role of the "criteria" and "conditions" in the *Canada Health Act.*

Section 4 of the *Canada Health Act* states that the purpose of the Act is to establish criteria and conditions which provincial programs must meet before payments flow to the provinces under funding arrangements set out in separate legislation. The criteria include public administration, comprehensiveness (provincial programs must insure all medically necessary hospital and physicians' services), universality, portability and accessibility. The conditions relate to user fees and extra-billing.

It has been possible to formulate these criteria because provincial health care programs have all reached a certain state of development, which the Act is designed to preserve. This is not true of child care services. In the body of our Report we explain why it may be necessary to come to different arrangements with each province, with respect to the implementation of standards, for example, or the rate at which spaces are developed.

Thus the arrangements which the federal government makes with the provinces may be as important as the legislation itself. We hope that these arrangements will be made public. We also ask whether the data will be available to allow an evaluation of the programs once they have run their course.

B. The Legislative Process

In order for legislation to be passed by the House of Commons it must receive three readings. After receiving leave of the House to be introduced, the legislation is given First Reading, printed and put on the list of government business for the current Parliamentary session. There is no fixed time period between First and Second Reading; it is in the government's discretion to decide when Second Reading takes place. Second Reading is a debate to accept the legislation in principle. The legislation is then sent to a Parliamentary committee for examination. The committee can direct its own procedure: for example, decide whether to hear witnesses, how many witnesses, and so on. It can also amend the legislation, although not in any way as to change it in principle. After the committee has completed its deliberations, it orders that the legislation, together with any amendments, be reported back to the House. Report Stage and Third Reading follow.

At the report stage, the House will consider motions to amend the legislation, although only upon notice in writing. Third Reading provides yet another opportunity for debate and amendment. If no amendments have been submitted for consideration, the report stage becomes more of a formality and the report and third reading stages may then occur on the same day. In voting on Third Reading, the House passes the legislation. A message is then sent to the Senate stating that the legislation has been passed.

Passage through the Senate involves a similar procedure. The Standing Committee on Social Affairs, Science and Technology will be responsible for examining the proposed Child Care Act.

Federal arrangements with the provinces do not have to be approved by Parliament, nor do they have to be made public.

LIST OF WITNESSES

From Newfoundland

Ms. Lynette Billard
President, Canadian Day Care Advocacy Association
St. John's

From Nova Scotia

Ms. Sharon Hope Irwin
Director, Town Daycare Centre.
Board Member, Canadian Day Care Advocacy Association
Glace Bay

From New Brunswick

Ms. Susan McGibbon
Owner, In-Home Day Care Centre.
Board Member
Canadian Day Care Advocacy Association
Fredericton

From Québec

Ms. Micheline Lalonde-Gratton
Professor, Child Care Education Program
Université du Québec à Montréal
Montréal

From Ontario

Ms. Martha Friendly
Coordinator, Child Care Resource and Research Unit
University of Toronto
Toronto

From Manitoba

Ms. Bonnie Roebuck
Membership Services Coordinator
Manitoba Child Care Association.
Steering Committee Member
Canadian Day Care Advocacy Association
Winnipeg

From Alberta

Mr. Sam E. Blakely
Director of Social Services
City of Calgary
Calgary

Mr. Jake Kuiken
Treasurer
Canadian Day Care Advocacy Association
Calgary

Ms. Brenda Ringdahl, R.N., B.ScN.
President, Kids First
Calgary

Ms. Teresa Del Frari, B. Comm., C.A.
Kids First
Calgary

From British Columbia

Ms. Penny Coates
Director, Day Care Program, Simon Fraser University.
Vice-President
Canadian Day Care Advocacy Association
Vancouver

Ms. Mab Oloman
Director, Day Care Program, University of Britsh Columbia.
Media Coordinator, B.C. Day Care Action Coalition
Vancouver

Ms. Rita Chudnovsky
Community Programmer, Douglas College
Vancouver

From the Yukon

Ms. Joanne Oberg
Secretary, Canadian Day Care Advocacy Association
Whitehorse

Ms. Carol Christian
Owner, In-Home Day Care Centre.
Steering Committee Member
Canadian Day Care Advocacy Association
Whitehorse

SUBMISSION

Ms. Beverley Smith
Calgary, Alberta

THE SENATE

Wednesday, July 13, 1988

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

Prayers.

CANADIAN MULTICULTURALISM BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-93, for the preservation and enhancement of multiculturalism in Canada.

Bill read first time.

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

On motion of Senator Marshall, with leave of the Senate and notwithstanding rule 44(1)(*f*), bill placed on the Orders of the Day for second reading later this day.

VISITORS IN GALLERY

ABORIGINAL DELEGATION FROM NORWAY

Hon. Charlie Watt: Honourable senators, I am pleased to introduce two ladies who have come to visit us from northern Norway. They have been heavily involved in dialogues between the Norwegian government and the aboriginal people and they have been very successful in achieving recognition for the aboriginal people in Norway. Moreover, the Norwegian government is, I believe, considered a leader in working towards establishing co-existence with and recognition of its aboriginal people.

Hon. Senators: Hear, hear!

LATIN AMERICAN PARLIAMENTARY MEETING ON ENERGY AND PETROLEUM

SECOND ANNUAL MEETING, BOGOTA, COLOMBIA—NOTICE OF INQUIRY

Hon. Earl A. Hastings: Honourable senators, I give notice that on Tuesday, July 19, 1988, I will call the attention of the Senate to the Second Annual Latin American Parliamentary Meeting on Energy and Petroleum held in Bogota, Colombia, from July 3 to 10, 1988, and the participation of the members of the Standing Senate Committee on Energy and Natural Resources.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Ian Sinclair: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at four o'clock in the afternoon today, even though the Senate may then be sitting, and that rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

HUMAN RIGHTS

JAPANESE CANADIANS—GOVERNMENT APOLOGY AND COMPENSATION—PROGRESS OF NEGOTIATIONS

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a question for the Leader of the Government in the Senate. There have been recent reports that representatives of Canadians of Japanese descent have been meeting with government officials with respect to reopening negotiations respecting compensation and an apology to Canadians of Japanese descent for acts taken by the government during the Second World War and following.

Can the Leader of the Government in the Senate tell us whether there has been any progress with respect to those talks or give us any new information that he may have on these discussions?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, all I can tell my friend is that my colleague, Mr. Weiner, the Minister of State (Multiculturalism), has met with representatives of the Japanese community. They are, on both sides, sufficiently satisfied that progress is being made to have decided to meet again soon.

CORRECTIONAL SERVICE OF CANADA

RESIGNATION OF COMMISSIONER AND DEPUTY COMMISSIONER—GOVERNMENT ACTION—REQUEST FOR TABLING OF COMPTROLLER GENERAL DOCUMENTS

Hon. Earl A. Hastings: Honourable senators, I have a question for the Leader of the Government in the Senate that flows from a question I asked on June 7 respecting the resignation of Mr. Rhéal LeBlanc, Commissioner, Correctional Service of Canada.

At that time, when I asked for an explanation, the honourable leader replied to me:

> I have no reason to believe that the resignation of the commissioner, which I knew about before it was drawn to my attention by Senator Hastings, was anything but normal. It was done in the normal course and for normal reasons.

There is now evidence coming to light that there were practices and procedures by the commissioner's office that were far from normal. A report prepared by the Comptroller General of Canada with respect to the investigation of these procedures led to the conclusion that the commissioner and officials may have been in a conflict position. I do not think there was anything "normal" about the commissioner's resignation.

I should like to ask the Leader of the Government in the Senate the following: Did the government ask for and receive the resignation of Mr. Rhéal LeBlanc, Commissioner, and Mr. Gordon Pinder, Deputy Commissioner, Offender Policy and Program Development?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my information about Mr. LeBlanc is that he received an attractive offer from the Government of Alberta and decided to accept it. I have no information about Mr. Pinder, but I shall make inquiries along the line suggested by the honourable senator.

Senator Hastings: Would the Leader of the Government undertake to table in this chamber all documentation prepared by the Comptroller General with respect to his investigation into the practices of the commissioner's office and his contracting procedures with CACI Canada Limited of Edmonton, wherein over $600,000 in contracts were leased to one organization on a sole-purpose basis?

Senator Murray: The honourable senator has correctly identified the Comptroller General of Canada as having conducted an investigation into this matter at the request of the Solicitor General in October of 1987.

I have to tell the honourable senator that my information is that that study has been released in its entirety, except for certain legally required exceptions relating to privacy and third-party information, which are provided for in the Access to Information Act.

Senator Hastings: Would the Leader of the Government undertake to table that study in the Senate or at least make it available to honourable senators?

Senator Murray: Honourable senators, I shall make available to my honourable friend the document to which I have referred.

TRANSPORT

PORT OF CHURCHILL, MANITOBA—MAINTENANCE AND USE OF FACILITIES

Hon. Joseph-Philippe Guay: Honourable senators, my question is for the Leader of the Government in the Senate and is with reference to the Port of Churchill. Mr. Jarvis, who is a member of the Wheat Board in Winnipeg, mentioned yesterday that the possibility that Churchill will receive any grain this year is poor. I understand that the CNR is preparing the tracks to go to Churchill, whether they are going to use the port or not, and I also understand that there are approximately 10,000 tonnes of grain in storage in Churchill at the moment. If there is no grain to be shipped there at all, that will create a hardship not only for the port itself but for the people of the area.

I personally believe that to bring Churchill into the Canadian port picture, as it should be, we need some strong political will and support so that we will also have products other than grain being shipped from and received at the Port of Churchill. Could the Leader of the Government in the Senate take that into consideration so that the government will help Churchill once and for all, instead of saying that it is supporting Churchill, but only when the grain is delivered? If the government would do that, we could be assured that regular employment would take place in Churchill and also that the people of Manitoba would benefit—not just the farmers who can ship grain through to Churchill in an advantageous way, particularly the farmers from Saskatchewan.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend is aware that, in terms of the total shipments of grain through Canadian ports, Churchill has had a relatively small proportion. In any case, the honourable senator need not have any fears about the extent of political support of the present government for the Port of Churchill and the use of that port. If there is further information that I can convey to the Senate, I will obtain it, in particular, from my colleague, Mr. Mayer.

● (1410)

AGRICULTURE

PLIGHT OF TOBACCO FARMERS IN SOUTH-WESTERN ONTARIO—AGENDA ITEM AT MEETING OF MINISTERS OF AGRICULTURE—GOVERNMENT ACTION

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate. This week the federal and provincial Ministers of Agriculture met in Toronto. Could the Leader of the Government advise us whether the problems facing the tobacco farmers in south-western Ontario constituted a specific item on the agenda? If

so, will anything be coming forward as a result of the meeting that has taken place this week?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall have to ask for a report from my colleague, Mr. Wise, the Minister of Agriculture.

ABORIGINAL PEOPLES

SERVICES AND RECOGNITION OF RIGHTS—GOVERNMENT POLICY—ROLE OF PROVINCES

Hon. Charlie Watt: Honourable senators, I have a question for the Leader of the Government in the Senate that has to do with aboriginal peoples in Canada. Knowing that the Conservative government up to now—to my best recollection, at least—has no specific policy in terms of the types of services or the recognition of rights that should be in place for the aboriginal peoples, will that government, before the election, be coming out with a policy with regard to aboriginal peoples? If so, will that policy become public information?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I must confess—and perhaps it is because of our respective locations in the chamber—that I did not understand fully the import of the honourable senator's question. I will have to read it in *Hansard* and bring in a prepared reply. In the preamble to the question there were a number of what appeared to me to be assertions that I could not accept and I would want to consider them very carefully.

Senator Watt: Honourable senators, let me try again to see whether I can make my question a little clearer.

It is quite well known within the aboriginal society that the present government has no policy for aboriginal peoples. My question is this: Will the government come out with such a policy before the election? If so, will that become public information?

Senator Murray: Well, what I thought I heard the first time was, indeed, what I heard. Honourable senators, I reject absolutely the contention of the honourable senator that this government does not have a policy with regard to aboriginal peoples. Senator Watt has only to go back to the many efforts that were made to obtain for aboriginal peoples a self-government amendment to our Constitution. He has only to refer to the proposals that we put on the table before the provinces and the representatives of the aboriginal peoples at the constitutional conferences. He may also wish to consider the efforts that we have made in tripartite negotiations between certain of our aboriginal peoples, the provincial governments and the federal government, the progress that we have tried to make and the proposals we have tried to put forward with regard to land claim settlements and so forth. Therefore, the premise of his question is completely invalid.

Senator Watt: Honourable senators, I have a supplementary question. I do appreciate the fact that the present government made some efforts and tried to reach some tangible agreement at the constitutional level. That, however, is not the only area that has to be taken into consideration. The transfer of administrative responsibilities takes place almost daily between the federal and the provincial governments. Those governments that are beginning to assume responsibilities have very little knowledge of the real requirements of aboriginal peoples in the various regions, particularly in some of the isolated communities. Before the Government of Canada completely transfers its administrative responsibilities, it should carefully examine the jurisdictional questions that are associated with that.

Do not forget that the Government of Canada, according to the Constitution of this country, has a trusteeship responsibility under section 91.24, which cannot be taken lightly. It is a part of the Constitution.

As I have said, I do appreciate the effort that your people have made with regard to the constitutional level, and that has to continue. There is also the other side of it, the "service" side, which ties the two together. The Government of Canada, from time to time, says, "Our pockets are empty. You have to turn to the provinces." The provinces then say, "We have not been provided with financial aid by the federal government. We cannot entertain your request."

A solution has to be found.

I believe that the Government of Canada is moving too fast in willingly relinquishing its responsibility to the provinces. I would like to alert you to that, because it is going to become a real problem in the near future. That is why I am raising the point that the government has to have a policy. If it does not have a policy, then things will slip into the hands of the provinces, which the aboriginal peoples have rejected from day one.

I go back to the time when the white paper was introduced by the previous government—the Liberal government. The policies contained in that white paper are gradually being introduced. In the eyes of the aboriginal peoples, some of those policies are already in practice.

Senator Murray: Honourable senators, I do not wish to enter into a debate on this matter during Question Period. However, there are three points that should be made.

First, the federal government has no intention whatsoever of abdicating any part of the constitutional responsibility that devolves upon it for Indians and lands reserved for Indians. Second, in terms of any administrative arrangements, we make them in the closest consultation with those affected. Third, I understand the point that the honourable senator makes about the role of the provinces. Nevertheless, the country is divided into provinces. The aboriginal peoples do live within provincial boundaries. It cannot be said that the provinces can wash their hands of any responsibility for services to these people.

Having said that, I repeat that the federal government does not contemplate abdicating any of the responsibilities that devolve upon it with respect to aboriginal peoples.

CAPE BRETON DEVELOPMENT CORPORATION

PRESIDENCY—APPOINTMENT TO FILL VACANCY—NAME OF CONSULTING FIRM

Hon. B. Alasdair Graham: Honourable senators, would the Leader of the Government in the Senate enlighten us as to the vacancy of the presidency in the Cape Breton Development Corporation?

Several weeks ago the minister, in response to a question, said that the appointment was imminent. Several weeks have since passed. As the minister knows, the previous president was fired on October 3 by the government. There have been indications that a search committee has been established by the board of directors. Can the minister enlighten us any further as to an appointment?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know what is holding this matter up. I thought it was imminent when I gave that answer to my honourable friend some weeks ago. It turns out that it was not imminent then, but pending. When I asked yesterday, I was told that it is imminent.

I will make further inquiries, but, again, I have no reason to believe that the appointment will be long delayed.

Senator Graham: The Minister of Regional and Industrial Expansion indicated that an outside, independent consulting firm had been employed to make a recommendation. Could the minister reveal to us the name of the consulting firm that is making that recommendation?

Senator Murray: Honourable senators, I do not know that.

Senator Graham: Would the minister be good enough to inquire and provide us with that answer?

• (1420)

Senator Murray: I shall see what information I can obtain and properly convey to the house on that matter.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Jack Marshall: Honourable senators, I have some delayed answers. According to the established practice, unless otherwise requested, I ask that they be taken as read and that they appear in *Debates of the Senate*.

HUMAN RIGHTS

JAPANESE CANADIANS—GOVERNMENT APOLOGY AND COMPENSATION

Hon. Jack Marshall: Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 15 last, by the Hon. Jerahmiel S. Grafstein, regarding Human Rights—Japanese Canadians—Government Apology and Compensation.

(*The answer follows:*)

On June 15, the Honourable Gerry Weiner met with representatives of the Japanese Canadian community to discuss the redress issue. There was a general consensus that those involved are acting in good faith and want to resolve the matter in a timely way. Both the minister and the group's representatives agreed to examine certain possibilities and meet again soon.

TRANSPORT

PRINCE EDWARD ISLAND—STATUS OF CN RAIL SYSTEM—PROSPECTIVE FEDERAL-PROVINCIAL AGREEMENT

Hon. Jack Marshall: Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 21 last, by the Hon. M. Lorne Bonnell, regarding Transport—Prince Edward Island—Status of CN Rail System—Prospective Federal-Provincial Agreement

(*The answer follows:*)

The railroad in Prince Edward Island has not been abandoned, although I am aware that this has been proposed in some quarters.

The federal government has ongoing discussions with Prince Edward Island relating to its transportation services in accordance with the needs of Prince Edward Island.

The federal government's transportation programs and its cooperation with the provinces on the details of implementation necessarily vary according to the specific needs of each province and region of the country: the type of service and arrangements that meet the needs of one province may not be suitable for the different needs of another province.

Contrary to Senator Bonnell's assertion, our Constitution does not restrict the federal and provincial governments by requiring that any arrangement suitable for one province must be imposed on or granted to every province.

CANADIAN MULTICULTURALISM BILL

SECOND READING—ORDER STANDS

On the Order:

Second reading of Bill C-93, An Act for the preservation and enhancement of multiculturalism in Canada.—(*Honourable Senator Marshall*).

Hon. Jack Marshall: Honourable senators, I should like this order to stand until later this day, please.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Order stands until later this day.

IMMIGRATION ACT, 1976

BILL TO AMEND—REVISED MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Doody:

That the Senate concur in the amendments made by the House of Commons to its amendments 1(*b*), 3, 4, 9(*a*) and 11 to the Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof;

That the Senate do not insist on its amendments 1(*a*), 2, 5, 6(*a*), 7, 8, 9(*b*) and (*c*), 10, 12(*a*) and (*b*);

That the Senate agree to the further amendments made by the House of Commons to clauses 14, 18 and 29;

That the Senate agree to the further amendment made by that House, adding a new clause after line 31 on page 56; and

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

Hon. Nathan Nurgitz: Honourable senators, may this matter stand until later this day?

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Order stands until later this day.

NATIONAL HOUSING ACT
CANADA MORTGAGE AND HOUSING CORPORATION ACT

BILL TO AMEND—THIRD READING

Hon. Eileen Rossiter moved the third reading of Bill C-111, to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to repeal certain enactments in consequence thereof.

Motion agreed to and bill read third time and passed.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. Nathan Nurgitz moved the third reading of Bill C-89, to amend the Criminal Code (victims of crime).

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

Hon. Joan Neiman: Honourable senators, as I observed on second reading of Bill C-89, most of us in this chamber would agree on the need for measures to assist victims of crime, to offer them greater support, compensation and restitution by the offender in appropriate cases and to recognize their place in the criminal process. Keeping those objectives in mind, the committee was also concerned that the bill preserve the fundamental rights and freedoms that are the basis of our criminal justice system and the Charter, including the rights of accused persons.

The committee heard a number of witnesses in its review of the legislation: criminal lawyers from the defence bar; professors of criminology with particular expertise on the concerns of victims; spokespeople for victim assistance groups and the chairman of the Law Reform Commission. We also heard from the Minister of Justice and from his officials on several occasions. We are grateful for their careful consideration of our comments and questions during our examination of the bill.

One of our principal concerns was with the extension of the mandatory ban on publication of the identity of complainants to proceedings relating to the offences of loan sharking and extortion. Bill C-89 also provides that, if the prosecutor, the complainant or a witness under 18 asks for a ban on the publication of information disclosing the identity of the complainant or witness, the judge must grant the request.

We do not disagree with protecting complainants and witnesses in appropriate cases but feel that giving judges discretion to limit publicity would be the better course of action. As a matter of principle, the committee believes that bans on publication in criminal cases should be made by the courts on a case-by-case basis. We recognize the need for a mandatory ban in exceptional cases. This is why we agreed to the provision in relation to sexual offences against children. However, a mandatory ban is a drastic curtailment of freedom of the press and should be used sparingly. In spite of the arguments advanced by the minister and his officials, some committee members are still not convinced that extortion and loan sharking are offences for which the exception should be made.

The government will soon be given two opportunities to review its position in this matter. An appeal has recently been heard in the Supreme Court of Canada in *Canadian Newspaper Co. Ltd. vs the Attorney-General for Canada* against a decision of the Ontario Court of Appeal, which held that the mandatory ban contained in section 442(3) of the Criminal Code was of no force and effect because it infringed the freedom of the press, contrary to the Charter of Rights and Freedoms.

Furthermore, the Department of Justice is examining the recommendations of the Law Reform Commission which have been advanced as part of the process of developing a new Criminal Code. On the question of publication bans, the commission is of the view that in all cases the presumption should be in favour of openness and that no automatic bans should remain in the Code.

Because we shall shortly be given a final opinion on this aspect of the present law, the committee has decided not to pursue the matter further at this time.

The other provisions of the bill that caused considerable concern were those which would allow for the imprisonment of offenders who default on payment of restitution orders, with no appeal from the proceedings at which the finding is made. We are aware that imprisonment is not automatic, that a hearing is held and that reasons for failing to pay will be assessed. However, imprisonment is a harsh sanction, whether it serves as a punishment or, as in the case of Bill C-89, the threat of its imposition is designed as a goad to the payment of money to the victim of a crime. Therefore, offenders should not be sent to jail without all the safeguards the criminal justice system can provide.

• (1430)

Apart from the possible violation of the Charter of Rights and Freedoms in imposing imprisonment without appeal for what some committee members believe is a fresh offence, we also have doubts about both the efficacy and appropriateness of imprisonment as a means of enforcing the payment of restitution. Attempts to enforce payment of what may be a relatively small sum in restitution could result in significant costs to the state—the expense of imprisonment and perhaps welfare payments to the offender's family.

Personally, I believe that Canada has far too many people using up far too much expensive and useless time in jail because they cannot pay a fine. A recent report of the Canadian Sentencing Commission states that in 1983 fine defaulters made up 14 per cent of the prison population in British Columbia, 32 per cent in Ontario and 48 per cent in Quebec. The report also indicated that there is a wide disparity in the length of the prison sentences served by offenders in default of fines.

In response to our concerns, government officials stated that imprisonment in default of payment of restitution is not intended to apply to offenders who cannot pay. Rather, it is an enforcement method of last resort. In spite of the strong arguments we heard and assurances of the existence of safeguards with respect to these particular provisions, our misgivings remain. As stated in the committee's report, the existence of other safeguards, including judicial review, is significant, but an appeal mechanism would have been preferable.

Over the past few years Parliament has passed many bills that have brought significant changes to the criminal law. Here we are passing a statute to expand the use of restitution orders, to impose victim fine surcharges and to set procedures for the use of victim impact statements, to name only a few measures in the bill. If widely used, such provisions may, and undoubtedly will, have a major impact. Therefore, it is important to know what actually happens as a result. Will social benefits result or will the problems remain? We have recently made changes to the young offenders legislation and to sexual offence provisions in the Criminal Code. Shortly we shall be asked to authorize seizure and forfeiture of proceeds of crime. It is very important that we keep track of the effect of all these changes. Surely today modern technology would seem to offer ways of recording any type of information required and of analyzing it, no matter how voluminous or complex.

[Senator Neiman.]

While the committee was studying the legislation, which I have mentioned, I, as chairman, on several occasions asked the Department of Justice if it had put in or intended to put in a regime to analyze the effects of these various changes to the Criminal Code and other acts. Unfortunately, we have continued to receive the reply that the matter is under consideration and under study. In this day and age, when we are constantly creating new types of criminal offences, I really do not feel that that is good enough.

Therefore, the committee recommended most strongly to the government—and I repeat it—that it take immediate action, in conjunction with provincial and territorial authorities, to put in place a system of data gathering to provide meaningful statistics on the impact of changes to the criminal justice system.

Hon. Senators: Hear, hear!

Motion agreed to and bill read third time and passed.

CRIMINAL CODE
FOOD AND DRUGS ACT
NARCOTIC CONTROL ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Spivak, for the second reading of the Bill C-61, An Act to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act.—(*Honourable Senator Stanbury*).

Hon. Richard J. Stanbury: Honourable senators, yesterday Senator Nurgitz did an excellent job in moving second reading of Bill C-61, to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act. He also did an excellent job in explaining the purpose and content of the bill.

I am happy to be able to say that I believe my colleagues in the official opposition will be able to support not only the purpose of this legislation but also, after careful scrutiny in committee, the manner in which the bill implements this purpose.

It, perhaps, logically falls to a Liberal senator to point out that this bill results from the efforts of the task force set up within the Government of Canada by a Liberal minister of justice in the early 1980s. I notice that our colleagues on the government benches always seem to be willing to point out, even at this late date, what they consider to be shortcomings of former Liberal administrations, but, mysteriously, their memories fail when it comes to giving credit.

Senator Frith: Shame!

Senator Stanbury: In any event, I am prepared today to congratulate Senator Nurgitz and the government he represents for finally having acted upon the recommendations of that task force and presenting to honourable senators a bill that can only enhance the public's respect for law and justice

and take away from organized crime one of its most important tools, the ability to launder and invest the proceeds of crime domestically or globally with impunity. I remember that four years ago, at the Conference of the Canada-U.S. Interparliamentary Group, one of the burning issues was the high-handed way in which the courts in the State of Florida had held to ransom a local branch of one of Canada's chartered banks until it had agreed to make available to the court information concerning substantial financial transactions which had taken place in an offshore branch of that bank. I can remember complaining bitterly that the State of Florida had not respected due process of law. A response from an American congressman was that until Canadian law provided some remedies for the easy laundering of drug money through Canadian banks' overseas branches the American courts might well be expected, through frustration, to take what might be deemed to be unusual, but perhaps justified, measures.

● (1440)

We are at last fulfilling our international obligations. It is true that this bill somewhat anticipates wide acceptance of an international accord, but it is still pretty late, having in mind the course of events in the drug trade over the last number of years.

The provisions of the bill are most important. The police forces will now have the means to trace and seize the proceeds of crime as never before. At the same time this bill attempts to guard against breaches of the Charter of Rights and Freedoms, to see that the rights of privacy are preserved and that the rights of innocent third parties are protected, so far as possible within the purpose of the legislation.

The legislation is aimed at the greedy. The bill calls their activities "enterprise crime". They are not just drug smugglers and dealers. The term is intended to cover all organizations that take advantage of modern communications, transportation and corporate structuring to frustrate the legal systems of our country and of other countries around the world, to obfuscate the source and diversion of vast illicit wealth.

During committee hearings in the other place a number of useful amendments were introduced that have made the bill even more effective than its original draft. Our committee may wish to make further amendments. In any event, I should like to see the matter go forward as quickly as possible. Its passage may help to encourage the final acceptance of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Honourable senators, I recommend that we give this bill second reading and leave its detailed discussion to our Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Senators: Hear, hear!

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?

On motion of Senator Nurgitz, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

CANADA LABOUR CODE

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Rossiter, for the second reading of the Bill C-124, An Act to amend the Canada Labour Code.—(*Honourable Senator Marsden*).

Hon. Lorna Marsden: Honourable senators, all Canadians are painfully aware of the very high number of industrial accidents and even deaths that occur in the workplaces of this country annually. The situation of workers in many industrial settings in which health and safety issues are crucial must be the subject of constant attention and revision.

As Senator Spivak told us yesterday in her analysis of this bill, the series of amendments to the Canada Labour Code contained in Bill C-124 will provide improvements for those working in Canada's coal mines. This set of amendments represents an improvement upon existing legislation, and we are in support of speedy passage of this bill.

It is not necessary for me to add to the analysis given by Senator Spivak, but I would like to add a comment on the very satisfactory process through which agreement on these amendments has been reached among all parties. Our critic in the other place, the member of Parliament for Cape Breton-East Richmond, has expressed great satisfaction that the consultations were widespread and extensive with the unions, the employers and the critics in the other place, and that he himself was able to play a constructive role in bringing about and helping these consultations. He also expressed the view that the minister did an excellent job in bringing these amendments forward in a quick and satisfactory fashion. Indeed, he asked me to make that statement as part of my remarks this afternoon, and I am pleased to do so. This is one of those occasions on which we can look with satisfaction on the cooperative and positive role played by the government and its critics in bringing about direct improvements in the lives of Canadians working in so many dangerous occupations, represented in this case by work in coal mines.

I suggest that we give second reading to this bill.

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?

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

CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Ottenheimer, for the second reading of the Bill C-75, An Act to implement an agreement between the Government of Canada and the Government of Nova Scotia on offshore petroleum resource management and revenue sharing and to make related and consequential amendments.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I regret that I was not present yesterday to hear the address on second reading given by Senator Cochrane, who came to the rescue of her neighbouring province by launching the debate on this offshore agreement. I must thank her for her presentation, although I regret she relied so heavily on some of the puff pieces that were obviously put together by overenthusiastic departmental writers. Nevertheless, I appreciate her activity in the interests of Nova Scotia and Canada.

We have no difficulty with this bill. We intend to give it the normal treatment. Accordingly, it should receive Royal Assent much earlier than the legislative priority which the government attached to it would suggest. It is clear that it is a bill and a subject matter which did not receive much priority from the government.

As has already been stated, Bill C-75 implements the agreement finalized between Canada and Nova Scotia on August 26, 1986. With luck, it might become law two years later or two years and a bit better later. One might have thought, in view of the fanfare which accompanied the signing of this agreement, that it should have received greater priority. The fact is that Bill C-75 was not introduced in the House of Commons for first reading until June 26, 1987, a full ten months after the agreement was signed.

● (1450)

As with the Atlantic Accord bill, about which I spoke on a previous occasion, the government did not press ahead either with the introduction of the legislation or with its passage through Parliament. As I stated earlier, it has been almost two years since that agreement was signed.

We intend to support Bill C-75, and, as a Nova Scotian, I particularly support the idea of a moratorium on drilling on the Georges Bank. The Georges Bank, as we all know, is an important and vital wealth-producing area of Nova Scotia, and it did finally receive the treatment it deserved by an amendment which was introduced to the original bill.

The people of the province of Nova Scotia, and in particular the fishermen of southwest Nova Scotia, welcome the decision to ban drilling on the Bank until at least the year 2000. Having said that, I would hasten to add that it was really the people of Nova Scotia and the public opinion of the province that finally induced the Government of Canada and the Government of Nova Scotia to accept the notion that drilling on the Georges Bank ought to be delayed.

Senator Cochrane talked about the era of cooperation which had been ushered in by the election of the new government in 1984. I should have thought that that rhetoric was somewhat outdated in July 1988—in the reality of the experience since 1984—because it is a fact that, when the moratorium on the Georges Bank was announced, the Premier of Nova Scotia publicly stated that day that he had had absolutely no advance warning whatsoever of the decision of the Government of Canada to declare a moratorium and that he would check into it and find out what had been going on. At least he was reported in the Halifax newspapers to that effect.

The Parliamentary Secretary to the Minister of Energy, Mines and Resources took a more realistic attitude than did Senator Cochrane in her address on this subject when he said:

> The people of Nova Scotia have decided on a moratorium until the year 2000. The people of Nova Scotia have said that they fear the environmental impact on Georges Bank.

It was, of course, the public opinion of Nova Scotia that eventually brought about the amendment to the original bill.

We acknowledge the importance of the fishery in the province of Nova Scotia, and particularly the fact that that industry is a mainstay in the economy of the southwestern part of the province. Nevertheless, the concern about drilling on the Georges Bank was not a negative attitude towards industrial development by the citizens of the province; they are quite prepared to accept economic change and industrial diversification.

There are just one or two points I should like to raise in connection with the contents of the bill, and possibly the sponsoring senator can give me some information on these matters when she concludes the debate or when, indeed, the bill comes back from committee and we give it third reading. For instance, we are interested in the board that is to be established. We know that it is to consist of five members, two chosen by the federal government, two chosen by the province, with the fifth member to be chosen jointly. We do not know what the precise activities of the board will be nor do we have any idea of what the proposed budget of this particular board is to be.

In his testimony before the House of Commons legislative committee on June 7, 1988, the minister was non-committal and vague on the subject of the activities and budget of the board. Perhaps, now that the matter has been brought to his attention, that information can be forthcoming and made available to the public prior to the enactment of the legislation.

One wonders whether any progress has been made whatsoever in establishing the board and whether it has been held up because of the delay in bringing forward the legislation. That is one point.

The second point has to do with the $200 million fund provided under this particular agreement. As we know, there was an original agreement entered into by the Government of Nova Scotia and the Government of Canada in 1982. That

agreement was at that time satisfactory to the Province of Nova Scotia and to the premier of the province. However, a new agreement was entered into, and the original fund, which had some conditions attached to it, has been transformed into an outright grant system. One is bound to ask at this stage what has happened, if anything, to the $200 million fund. Have items been approved for expenditure? Have commitments been made? Have, indeed, any expenditures been made? Perhaps that information can be forthcoming before we conclude our business.

It has been reported that funds have been committed to such projects as bridges, roads, hospitals, ferries, operating expenses for provincial government departments and even sewers for a private real estate development. It would be interesting to have these rumours scotched, because it rather stretches the imagination to envisage that a fund established under an offshore agreement between Nova Scotia and Canada, created for the development of the offshore, could be used for projects that seem rather remote from offshore development. Perhaps on this point we could be given some information.

It is clear that the original intention of the fund was to provide for capital spending related to anticipated offshore development. Therefore, it becomes relevant now to inquire what commitments and what expenditures have been made—and for what purposes.

I read earlier in the year that the Auditor General of Canada was conducting a comprehensive audit on this matter. Of course, we await the results with interest.

As we examine the third reading speeches in the House of Commons, we acknowledge that all parties agreed with the final passage of the bill and that all speakers were principally preoccupied with the Georges Bank drilling ban. In the concentration on that particular and important problem, relatively little attention was paid to one of the major, stated objectives of the agreement when it was signed in August 1986, which was:

• (1500)

> to achieve the early development of petroleum resources in the offshore area for the benefit of Canada as a whole and Nova Scotia in particular.

One can certainly say at this stage that early development of petroleum resources has not yet occurred and that certainly that objective has not been attained.

The 1987 annual report of the Canadian Petroleum Association provides a succinct statement of what to expect:

> Things will be quiet in 1988 on the east coast, with only two or three new wells scheduled at this time.

Petro-Canada, one of the major players in the frontiers, states in its 1987 Annual Report as follows:

> In 1987, the Corporation reduced frontier land expenditures. Only those frontier holdings containing significant discoveries or possessing definite medium-term exploration potential were retained. As a consequence exploration rights were relinquished in large areas off the East Coast and in the North.
>
> During the year, Petro-Canada increased its emphasis on international programs.

That is a quotation from the annual report.

The activity and the presence of Petro-Canada has been drastically reduced on the east coast and its interest in international activity has increased. Certainly, that is not in accordance with the stated objective of the offshore agreement, which was to achieve offshore development. I recall that a drilling operation that Petro-Canada had commenced in the off-shore of eastern Nova Scotia was transferred to Africa and the equipment was situated in Ghana.

It is important to put this situation in perspective. There is very little activity off the coast of Nova Scotia at the present time. There has been a drastic diminution in offshore drilling activity. In 1984 14 drill rigs were active in the east coast offshore area and $1.3 billion was invested that year in the search for hydrocarbons. In the spring of 1984 up to nine rigs were working off the Scotia shelf near Sable Island.

The most recent issue of the "Canadian Petroleum Association Review" states that in the month of May only three drill rigs were operating in the east coast offshore; there were fourteen rigs in 1984 and three in 1988. The point is clearly made by the statistics that the offshore agreement has had virtually no impact on activity. The fact is, while there may have been, in the words of the sponsoring senator, an increase in that intangible federal-provincial cooperation, there has been a decrease in the tangibles, namely, production and development.

I have on a previous occasion gone into this whole question in some detail and I would not want to repeat all the arguments I made at that time about the circumstances which have had the effect of reducing to a virtual standstill offshore activity in Nova Scotia. Of course, the situation has been due in part to the decrease in international oil prices and in part to the withdrawal of the government from activity, and to the lack of any policy on the part of the Government of Canada that would maintain offshore development.

The agreement to which we are now giving belated approval has had absolutely no effect up to the present in achieving what was regarded as a fundamental objective, namely, the offshore development of the province of Nova Scotia. Obviously we will hear some answers, particularly on the fund and on the board, either in committee or later at third reading.

Some Hon. Senators: Hear, hear!

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?

On motion of Senator Cochrane, bill referred to the Standing Senate Committee on Energy and Natural Resources.

PRIVATE BILL

MONTREAL TRUST COMPANY OF CANADA—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons to return Bill S-17, intituled, An Act to authorize the Montreal Trust Company of Canada to be continued as a corporation under the laws of the province of Quebec, and to acquaint the Senate that they had passed the bill without amendment.

[*Translation*]

IMMIGRATION ACT, 1976

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—DEBATE ADJOURNED

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

HOUSE OF COMMONS
Canada

Tuesday, July 12, 1988

ORDERED—That a Message be sent to the Senate to acquaint Their Honours that this House agrees with amendment 1 made by the Senate to Bill C-84, An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof, but disagrees with amendments 2(a) and (b) and with the earlier amendments 5(b) and (c), on which the Senate insists, because this House believes they contradict the principles of the Bill for the following reasons:

Amendments 2(a) and (b) would reverse the policy on which the *Immigration Act, 1976* was based, which policy was not changed in the Bill as passed by this House. The amendments jeopardize the possibility of successfully prosecuting persons who profit from organizing illegal migration and from counselling fraud among refugee claimants.

Earlier amendments 5(b) and (c) arise out of Senate amendment 5(a), which is amended by this House, and are inconsistent with that amendment.

And, that this House agrees with the principles set out in amendment 3 and in earlier amendment 5(a) on which the Senate insists, but would propose the following amendments:

Amendment 3 be amended to read as follows:

"Strike ouit lines 14 to 16 on page 24, and substitute the following:

"referred to in paragraphs 19(1)(e), 2(a) and 48.1(c) and subsections 39(2), 40(1), 41(1), 82.1(2), 83(1) and 91.1(1) and any such power,"

Earlier amendment 5(a) be amended to read as follows:

"Strike out lines 13 to 30 on page 8, and substitute the following:

91.1(1) Subject to subsection (1.1), where the Minister believes on reasonable grounds that a vehicle within twelve nautical miles of the outer limit of the territorial sea of Canada is bringing any person into Canada in contravention of this Act or the regulations, the Minister may direct the vehicle not to enter the internal waters of Canada or the territorial sea of Canada, as the case may be, and any such direction may be enforced by such force as is reasonable in the circumstances.

(1.1) The Minister may make a direction under subsection (1) where the Minister is satisfied that

(a) the vehicle can return to its port of embarkation without endangering the lives of its passengers;

(b) all passengers who seek Convention refugee status and are nationals or citizens of the country where the vehicle embarked them have been removed from the vehicle and brought into Canada;

(c) the country where the vehicle embarked its passengers is a signatory to the Convention and complies with Article 33 thereof; and

(d) the country would allow the passengers to return to that country or to have the merits of their claims to Convention refugee status determined therein.

(1.2) Where the Minister believes on reasonable grounds that a vehicle within (a) the internal waters of Canada, or (b) the territorial sea of Canada is bringing any person into Canada in contravention of this Act or the regulations, the Minister may direct that the vehicle be escorted to the nearest port of disembarkation and any such direction may be enforced by such force as is reasonably necessary."

and

That Bill C-84 be further amended in Clause 8 by striking out line 17 at page 9 and substituting the following therefor:

"portation by sea.

(4) If, during the second session of the thirty-third Parliament, Bill C-55 entitled *An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof* is assented to, this section shall cease to be in force six months after the day on which that Act comes into force."

ATTEST

ROBERT MARLEAU
The Clerk of the House of Commons

[*English*]

Honourable senators, when shall this message be taken into consideration?

Hon. Nathan Nurgitz: Honourable senators, I move, seconded by Senator Marshall:

That the Senate concur in the amendments made by the House of Commons to its amendment 3 and earlier amendment 5 (a) to the Bill C-84, An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof;

That the Senate do not insist on its amendments 2 (a) and (b) and earlier amendments 5 (b) and (c);

That the Senate agree to the further amendment made by that House to clause 8; and

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

If there are no objections, honourable senators, I would have that motion stand in my name until the next sitting of the Senate.

On motion of Senator Nurgitz, debate adjourned.

[*Translation*]

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Ottenheimer, seconded by the Honourable Senator Baroutes, for the second reading of Bill C-58, an Act to provide for the implementation of treaties for mutual legal assistance in criminal matters and to amend the Criminal Code, the Crown Liability Act and the Immigration Act, 1976.—(*Hon. Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I would first of all like to congratulate Senator Ottenheimer for his clear enough explanation of the provisions and international dimensions of this bill.

• (1510)

[*English*]

For the historical and the legislative context of this bill I ask honourable senators to cast their minds back some years to March 18, 1985, when Irish eyes were smiling in Quebec City at the famous—or, depending on your point of view, infamous—Shamrock Summit.

Senator Nurgitz: You didn't get invited, either!

Senator Frith: That is right, neither I nor the Governor General were booked for that particular gig.

As I say, I do not think we could agree unanimously that it was "famous" or "infamous", but, as far as we are concerned, one of the infamous corollaries to that summit meeting is presently before a legislative committee of the other place, which will be reporting it, we are told, on August 10 next. As I have explained, honourable senators, this legislation is a product of the summit meeting between the President of the United States and Prime Minister Mulroney, but I am bound to say that there are, nevertheless, reasons to support this legislation.

As honourable senators will know from speeches made in the other place and from the explanation given by Senator Ottenheimer, this bill intends to set out the legal framework necessary to implement in Canada the provisions of the Canada-U.S. Treaty on Mutual Legal Assistance. It is, therefore, what is generally called "implementing legislation", as is the legislation dealing with the Free Trade Agreement.

Traditionally, in criminal matters international cooperation has taken various forms—extradition, commissioned evidence, the service of documents issued by a foreign court and informal cooperation between law enforcement agencies, to name four examples. With an increase in transnational crime as a result of technological advancement in communications and transportation, crime is no longer a local or national affair. To quote the minister, "criminals take advantage of the traditional notion of territorial jurisdiction to escape prosecution." We must recognize mutual legal assistance as a tool that is both modern and essential to fight against international crime.

The treaty, which this legislation implements, encompasses both non-compulsory and compulsory means of assistance. Bill C-58 applies to the compulsory means of assistance, of which there are four categories: search warrants; the summoning of witnesses; the temporary transfer of persons in custody and the lending of Canadian exhibits to a foreign state.

Honourable senators, we support this bill, but there is a feeling in some quarters that the bill is a public relations exercise on the part of the government, because most, if not all, of the measures for which this bill provides legislation are already in practice, in diverse ways, at national common and civil law levels. In view of that uncertainty, perhaps the committee can look into it and assure us otherwise. Obviously any measure that assists law enforcement in the war against crime—especially organized or large-scale crime rings operating transnationally—should be supported by this house.

I should also like the committee to examine whether Canada is negotiating effectively with the United States in the development of a number of treaties and arrangements that have recently been signed. There have been complaints that the United States is enforcing such treaties and may enforce these provisions less enthusiastically than Canada is doing. Although I think the committee should look into those questions, it is clear that the principle of the bill should receive our support.

Honourable senators, I am not sure whether this bill should be studied by the Standing Senate Committee on Foreign Affairs because of the treaty dimension of the legislation or by the Standing Senate Committee on Legal and Constitutional Affairs. My suggestion to the sponsor of the bill is that, at least in the first instance, this bill go to the Legal and Constitutional Affairs Committee. It is, after all, legislation on criminal law, although I believe that the treaty implications I have raised should also be examined.

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?

On motion of Senator Ottenheimer, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

OFFICIAL LANGUAGES BILL

SECOND READING—DEBATE ADJOURNED

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): moved the second reading of Bill C-72, respecting the status and use of the official languages of Canada.

He said: Honourable senators, the Official Languages Act goes to the heart of the social contract that underlies the Canadian federation. It is the essence of our unity, our identity and our existence as a country. Without the act of 1969 and the policy it represents, I believe that we might very well have lost the country altogether or that, today, we would be the mere shell of a country—fractured, embittered and incapable of national will or national consensus.

Senator Gigantès: Who was prime minister at the time?

Senator Murray: Oh, I will come to that, honourable senators, and I have no hesitation—I never have had and I hope never will have—in giving credit where credit is due.

If I may be permitted a personal reference, when I first came to work here on the Hill 27 years ago there was a debate in the Senate whether to permit the installation of simultaneous translation facilities. That had been done in the House of Commons only two years previously. Of course, one always had the right to speak in Parliament in the official language of one's choice, but if someone were a francophone and wanted to be understood by his colleagues, or most of them, he spoke in the language of the majority. That was only 27 years ago.

• (1520)

French Canadians, looking at the Government of Canada as a whole and in its various emanations, saw very little to reflect their presence and importance in this country for many years. Whether they lived in Quebec or elsewhere, French Canadians saw that the promise of Confederation had, for them, been largely lost.

The Official Languages Act of 1969, and the policy that backed it up and that has evolved since, did not represent a new concept grafted onto the body politic of Canada. It represented our belated effort as Canadians to fulfill the concept of partnership that the Fathers of Confederation had agreed was necessary in this country, a concept which, in their time, they had implemented by creating federal institutions that were legally bilingual and by affording constitutional protection to certain linguistic guarantees.

[*Translation*]

Section 133 of the Constitution Act, 1867 did provide for the use of English and French in the debates and in the publication of the laws and other documents of the Parliament of Canada and the Legislature of Quebec, as well as in the federal and Quebec courts.

[The Hon. the Speaker.]

The granting of guarantees based on religion in Section 93 would also provide, at least for a time, for minority language education in Quebec, Ontario and Manitoba.

[*English*]

However, the politicians who succeeded the Fathers of Confederation, lacking the wisdom of their predecessors, failed to respect the spirit of Confederation in language matters. Despite solid constitutional guarantees for the linguistic minority in the Act of 1870, Manitoba declared itself unilingual in 1890. The same year franco-Manitobans also lost their schools and the resumption of teaching in French in 1896 was the prelude to another abolition in 1916. In 1912 Ontario's Regulation 17 put the stamp of majority and official intolerance on the issue of French schools.

So, at the provincial level outside Quebec, francophone minority rights were everywhere being diminished by the majority. At the federal level, a minimalist interpretation and application of the concept of bilingualism that had been in the Constitution was the order of the day.

It is little wonder that later steps taken by succeeding governments—bilingual postage stamps in 1927, amendments to the Civil Service Act in 1938 and 1958 to make the régime a bit more bilingual, bilingual cheques in the early 1960s—were perceived by many francophones as too little, too late. They did not succeed in creating a climate that would give the country's francophones a sense of full participation in our national institutions.

In the face of the precarious situation of francophones outside Quebec, is it any wonder that Quebecers would look increasingly toward their own province for institutions that reflected their own aspirations?

[*Translation*]

The Quiet Revolution in Quebec in the early 1960s would profoundly change Quebec society and give it the means to assert itself and be heard. Taking much of its strength from Quebecers' awareness of the precarious state of French in Quebec and in Canada, the Government of Quebec was able to present itself as the only body that could ensure the collective future of French-speaking Quebecers, culturally and economically.

It became urgent for francophones from Quebec and elsewhere in the country to feel more at home in federal institutions, if Confederation were to be given renewed impetus.

In attesting to the situation, the Laurendeau-Dunton Commission stated in 1965 that Canada was going through the most important crisis in its history. The commissioners added:

> If (this crisis) persists and intensifies, it can lead to the destruction of Canada. If it is overcome, it will have contributed to making Canada richer and more dynamic.

[*English*]

Richer and more dynamic, because the Canada the commission proposed would see anglophones and francophones working together to build this country within federal institutions that reflected our linguistic duality.

In a series of six reports produced between 1967 and 1970, the commission proposed, among other things, that Canada and some of the provinces declare themselves officially bilingual. Governments were asked to contribute to the development of minority offical language communities. It was recommended that the federal public service be made bilingual with respect to both language of service and language of work. It was also suggested that the principle of respect for the equality of the two languages be extended beyond government institutions to encompass private and voluntary organizations.

In short, the commission suggested the creation of a Canada in which francophones and anglophones could live together in an atmosphere of harmony and respect for one another. It proposed a Canada in which the special characteristics of each community did not serve as divisive factors but, instead, constituted the resources and the capital with which the Canada of tomorrow would be built. According to the commission, this Canada of tomorrow lay within our grasp insofar as we wanted it.

[*Translation*]

In the midst of this controversy and despite the passions unleashed within Canadian society, in 1969, the Government of Prime Minister Trudeau and the leaders of the other federal parties, Mr. Stanfield, Mr. Lewis and their colleagues, rose above partisanship and passed the Official Languages Act. Those who study language issues understand what composure they needed then and we still need today when dealing with these issues.

The 1969 Act made English and French the official languages of Canada. It established the equal status of English and French within the federal government and provided for services in both languages. The act also created the Office of Commissioner of Official Languages.

[*English*]

The same year New Brunswick declared itself officially bilingual in a resolution, if my memory serves me correctly, adopted unanimously by the New Brunswick legislature of that day under the leadership of Premier Louis Robichaud, our present colleague in the Senate. The opposition of the day was under the leadership of Mr. Richard Hatfield.

The Official Languages Act of New Brunswick is one of the key parts of a wider and richer historic legacy that has been left to the people of New Brunswick and to the people of Canada by the government of Premier Robichaud. I am very glad that Senator Robichaud is with us today, and I am glad to have the opportunity to salute his historic contribution in that regard in New Brunswick, because the Official Languages Act in that province was one of the keys to what we are talking about. It amounts to the renaissance of the Acadian people in which Senator Robichaud and some of his associates in New Brunswick played a very important part.

Senator Frith: No bones for Senate members of the B & B Commission.

• (1530)

Senator Murray: I am glad to have Senator Frith, who was a member of that commission, place it on the record.

An Hon. Senator: That's good!

Senator Murray: About the same time—that was in the late 1960s—school legislation broadened access to French-language public education in Ontario and Manitoba.

Senator Guay: Right on! He is sitting right beside you also!

Senator Murray: Senator Guay points to the presence in the chamber of our distinguished colleague, Senator Roblin, who was premier of Manitoba during much of that time.

The constitutional talks which led to the Victoria Charter promised to entrench recognition of the official status of English and French in the Constitution. However, and for reasons which had nothing to do with its linguistic provisions, the Victoria Charter never became one of our constitutional documents.

Changing attitudes and the will to achieve greater linguistic justice were nevertheless expressed in its text, which set out, among other things, constitutional guarantees for use of the two official languages in the legislatures of Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, Prince Edward Island and Newfoundland. The Constitution would have recognized the right of citizens to communicate in the official language of their choice with the head and central office of every department and agency of the federal government and the Governments of Ontario, Quebec, New Brunswick, Prince Edward Island and Newfoundland. The Victoria Charter also provided for translation of all provincial and federal legislation.

I make the point that in 1971 the provinces agreed to accept certain linguistic guarantees for the purpose of expressing my hope, and the hope of the government, that the constitutional discussions on linguistic issues that are to take place during the conferences provided for in the Meech Lake Accord will bear fruit and lead to more provinces accepting similar linguistic guarantees already included in the Constitution Act, 1982.

Progress did not stop with Victoria in 1971. The Department of the Secretary of State established various programs for promotion of official languages and support for the development of minority communities. It also concluded a series of agreements with the provinces on minority-language and second-language education. In 1973 Parliament passed a resolution which recognized, within certain limits, the right of public servants to work in the official language of their choice.

[*Translation*]

And those are but a few examples; the list of federal and provincial accomplishments in the language field is a long one.

But the progress we have seen over the years was not without problems. You will recall the air controllers' crisis which, from 1976 to 1978, stirred up passionate controversy and seriously threatened the good relations between the two linguistic communities.

Quebec's desire to protect French language and culture led to the adoption in 1977 of the Charter of the French Language. Bill 101 aimed to make French the "language of the state and of law as well as the language ... of work, of teaching, communications, trade and business."

More recently, you will remember the rifts caused by the linguistic quarrel in Manitoba or by the issue of school administration in Ontario.

These events reminded us that the language issue remains one of the most important and sensitive issues in the country.

[*English*]

However, although these problems were serious, they did not weaken the firm desire of Canadians to make our nation a more tolerant society, one which respected its differences and was prepared to defend the right of every citizen to live in his or her own culture and language.

While the language question was being debated, bilingualism was gaining ground in the country. Younger people especially have during the 1970s and 1980s shown a remarkably increased interest in learning the other official language and, with it, learning more about their country. Parents who did not have the opportunity to acquire a sufficient knowledge of the other language are insisting upon providing that opportunity for their children. This is true virtually everywhere in Canada. The changing attitudes of Canadians therefore make it possible to forge ahead in this area.

In 1982 the Charter of Canadian Rights and Freedoms enshrined the official character of the French and English languages in the Constitution. The Constitution entrenched the bilingual nature of federal institutions and institutions in New Brunswick and gave citizens the right to receive services from these governments in the official language of their choice. Henceforth, the right to minority language education would also be recognized under the Constitution—an important step ahead for linguistic minorities.

In Ontario Bill 8, providing services in French, was passed in 1986, rewarding the sustained efforts of the francophone minority and marking the culmination of a series of measures adopted over the years by previous Ontario governments. Recent statements by Premier Peterson, moreover, provide some hope that Ontario could become officially bilingual in the next few years.

[*Translation*]

In Quebec, as elsewhere, certain problems persist. However, the Government of Quebec did recently pass a bill concerning the delivery of social and health services in English. That measure reflects Quebecers' growing confidence in their culture and their language and, although there is still work to be done, is an encouraging sign. There is similar heartening movement in other provinces, and the agreement recently concluded with Saskatchewan is a good example.

This recent progress reflected a broadening of Canadians' attitudes to the language issue, and made possible the recognition, with the Constitutional Accord of 1987, of linguistic duality as a fundamental characteristic of the Canadian Federation. That recognition will animate the interpretation of the Constitution as a whole, and with it is an affirmation of the role of Parliament and of all legislative assemblies in the protection of that fundamental characteristic. That is an important step for linguistic minorities, important because it will become a foundation of future progress.

[*English*]

And this is essentially what I am asking honourable senators to do today: to take another step forward in respecting the federal government's commitment to official languages. This commitment is the one we acknowledge in the Meech Lake Accord and it is the same one that was made when our nation was created. It is this commitment which has led to major national crises, but also to some of the greatest moments in our history.

The bill before you today takes us further along the path which the Fathers of Confederation chartered for us—a path marked, when we are true to it, by the principles of justice, tolerance and respect for our fellow citizens.

As the Minister of Justice has indicated—and Mr. Hnatyshyn will be at the disposal of any committee that is established by this house to study it—Bill C-72 consolidates the central elements of Canada's language laws and policies as they have evolved over the past 120 years. It is based upon and consistent with section 133 of the Constitution Act of 1867; sections 16 to 23 of the Canadian Charter of Rights and Freedoms; the Official Languages Act of 1969; and the 1973 Parliamentary Resolution on Official Languages.

In addition, Bill C-72 complements the 1987 Constitutional Accord, which recognizes Canada's linguistic duality as a fundamental characteristic of our country and affirms the role of Parliament and the provincial legislatures in preserving that fundamental characteristic.

The bill will provide Canadians with a fair and flexible instrument for preserving and promoting Canada's linguistic duality and it is designed to respond to the needs and challenges of Canadian society in the years to come.

Bill C-72 proposes a new Official Languages Act comprising a preamble, a purpose clause, an interpretation clause and 11 parts.

The objectives of the bill, which are set forth in its preamble and purpose clause, are to ensure respect for the equality of status of Canada's official languages in federal institutions, to support the development of the English and French linguistic minorities and to encourage the advancement of both languages within Canadian society. The final objective of the bill is to set out the various roles and responsibilities of federal institutions in the area of official languages so that Canadians will know more clearly where to go for service and for assistance.

● (1540)

The first five parts of the bill restate constitutionally-based language rights, but otherwise retain the structure of the 1969 act, which is framed in terms of obligations on federal institutions. This combination of rights and obligations sets out and

clarifies the rights of Canadians while ensuring that the duty to respect those rights is borne by federal institutions rather than individual employees. It is, in other words, up to the institutions to organize and administer their affairs and personnel in such a way as to fulfill that duty.

For example, clause 16 in Part III imposes a duty on federal courts, other than the Supreme Court of Canada, to arrange their affairs so that judges will be able to follow proceedings in the official language or languages which the parties choose to use. As the wording of this clause makes clear, this is not a duty on individual judges but an institutional duty on the court, to be met by assigning judges capable of functioning in English to hear proceedings held in English, judges capable in French to hear those cases which take place in French, and judges capable of functioning in both languages where both languages are to be used in the proceedings. Clearly, then, this does not mean that all federal judges and adjudicative officers will have to be bilingual.

The first three parts of the bill deal with the proceedings of Parliament, legislative and other instruments and the administration of justice. They build on existing provisions of the 1969 Official Languages Act, modernizing them and bringing them into conformity with the Charter.

Part IV of the bill brings the 1969 act into conformity with the Charter's provision on communications with and services to the public, and provides measures to ensure the practical and effective application of the Charter's principles in this area.

Thus, communications and services must be available in both official languages at every head or central office of federal institutions and, as under the 1969 act, in their offices in the national capital region. They must also be available in either official language at all other federal offices where there is a significant demand in that language. Finally, services must be available in both languages where the nature of the office makes it reasonable to expect bilingual services, as, for example, in the offices of the Privacy Commissioner.

[*Translation*]

One of the purposes of the 1969 Act was to create regions, known as bilingual districts, where the public would obtain services in both official languages. However, those bilingual districts were never officially implemented because of the difficulties caused by the rigid underlying principle. For instance, federal offices serving a proposed bilingual district were often situated outside the district and consequently were not obliged to provide bilingual services.

That is why the more flexible criteria of the significant demand to be met by an office and of the nature of the office are to be found in the Charter and also in Bill C-72.

Part V, which deals with the language of work in federal institutions, has been added to the 1969 legislation. It derives from Section 16 of the Charter which guarantees that both official languages of Canada will have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada, and as languages of work.

[*English*]

Part V clarifies the nature and extent of the right to use either official language as a language of work in federal institutions. It does so by reference to the specific responsibilities of federal departments and agencies in which Canadians work. Most of the duties established by the proposed act are for institutions in the national capital region or in language-of-work regions that have been prescribed by government policy since 1977. In these regions federal institutions will have the duty to ensure that their workplaces are conducive to the use of both languages, thus facilitating the use of either language by the officers and employees of those institutions.

Under the bill, the Governor in Council may issue regulations dealing with services to the public and language of work. Subjects for regulation include the definitions of "significant demand" and "nature of the office", as well as the requirements for supervisors and corporate management in those regions.

Some commentators have expressed doubts about entrusting these subjects to regulations. I wish to emphasize instead the danger of casting too many rules in legislation when Canadians need a general framework that is capable of changing with the times. Government regulations will ensure that the application of the bill remains flexible and practical, that the requirements are fairly adapted to changing circumstances and are workable and effective in serving the people of Canada in accordance with their constitutional rights.

If honourable senators will take the trouble to examine the bill, they will find all manner of safeguards inserted there with regard to the regulations to be brought in and the administration of this law. There is a requirement for consultation with the public in section 84; there is a requirement for pre-publication; there is a requirement for parliamentary review, including the possibility of a negative resolution and so on.

[*Translation*]

Finally the administration of this act and of any regulations and directives made under this act and the reports of the Commissioner, the President of Treasury Board and the Secretary of State shall be reviewed by a parliamentary committee. Of course the Federal Court shall be able to rule on the validity of any regulation.

[*English*]

In short, there is no doubt whatsoever that the necessary safeguards to ensure sound regulations, including consultations and review, are provided in the bill. Moreover, unlike the present situation in which the Treasury Board has an almost free hand in setting the rules for implementing official languages programs, it will now be required under Part VIII of the bill to work within the scope set by the bill and the regulations, with all their criteria and consultation and review mechanisms. Consequently, the Treasury Board will have both clearer powers and clearer limits to those powers.

[*Translation*]

Furthermore, the President of the Treasury Board must table a yearly report to Parliament on the programs involving official languages which she is responsible for.

[*English*]

Part VI, another addition to the 1969 act, sets out the government's objective of achieving the full participation of English-speaking and French-speaking Canadians in our federal institutions. It is an objective; a solemn legislative commitment on the part of the government to ensuring that, subject to the merit principle, English-speaking and French-speaking Canadians have equal opportunities to employment in federal institutions and that the composition of the workforce of federal institutions reflects the presence of both official language communities. This means equitable participation—not, as some have suggested, equal participation—of the two language groups.

Part VII of the bill commits the government to enhancing the vitality and development of the English and French linguistic minority communities and to fostering the recognition, use and learning of both languages in Canadian society, in cooperation with the provinces and the private and voluntary sectors.

Part VII, it should be noted, is another new feature of the bill and complements the commitment to Canada's linguistic duality that is intrinsic to the Meech Lake Constitutional Accord.

[*Translation*]

In my capacity as Minister of State responsible for Federal-Provincial Relations, I would also like to point out that this part provides a powerful boost to our cooperation with the provinces and territories on official languages. In fact, since the bill was tabled, we have signed several general agreements with New Brunswick, Saskatchewan, Prince Edward Island and Yukon to promote official languages, and negotiations are taking place with several other provinces.

Clause 82, reflecting the emphasis in the Constitution on language rights, provides that Parts I to V, which arise from language guarantees provided by the Constitution, shall prevail in the event of any inconsistencies over any other act of Parliament or regulation.

[*English*]

In addition, because there is a judicial recourse under section 24 of the Charter, the bill provides a similar one under Part X. If the courts are to accept the new Official Languages Bill as a reasonable approximation of the language provisions of the Constitution, court enforcement must be possible.

● (1550)

However, under Part IX of the bill, complainants will first go to the Commissioner of Official Languages. The commissioner is charged with the ombudsman-like responsibility of investigating complaints and attempting to settle them in a reasonable manner. This part also provides a safeguard for rights relating to languages other than English or French. Clause 83 states that nothing in the Official Languages Act abrogates or derogates from any right concerning languages other than English and French.

Senator Frith: Those two are the same as in the present act.

Senator Murray: I appreciate the point the honourable senator is making.

In addition, clause 90 states that nothing in the act abrogates or derogates from any powers, privileges or immunities of members of the Senate or the House of Commons in respect of their personal offices and staff. Clause 91 prevents the application of official language requirements to the staffing of positions unless the requirements are objectively necessary to perform the functions of the position.

The last three parts of the bill—XII to XIV—deal with amendments to other federal legislation. The Criminal Code, which, since 1978, has provided for the accused's right to a trial before a provincial court judge or judge and jury who speak the official language of the accused, will be amended to spell out other rights, such as the right to interpretation and to a crown prosecutor who speaks the accused's language. This reflects the current practice of providing trials in the language of the accused.

Indeed, the language-of-trial provisions of the Criminal Code have been in force for several years now in the provinces of Ontario, Manitoba and New Brunswick and in the two territories. They have recently come into force in Saskatchewan and, with respect to summary conviction offences, in Nova Scotia and Prince Edward Island. Consultations are ongoing with the provinces to bring these provisions into force in every jurisdiction as soon as possible, but clause 96 of the bill will ensure that this occurs by 1990 at the latest.

The bill also implements the language agreements with the Northwest Territories and Yukon in several ways. Clauses 97 and 98 fulfill one of the terms of the federal-territorial agreements, notably the Government of Canada's undertaking to entrench the language rights and services contained in the territorial ordinances by protecting them from unilateral legislative action.

[*Translation*]

Those were, briefly, the main provisions of Bill C-72. I would like to point out that the bill was drafted with great care while considering the experience of the past nineteen years and drawing inspiration from that experience. Thus, the bill contains a substantial number of recommendations formulated by parliamentary committees that, over the years, had occasion to examine the issue of official languages, by commissioners of official languages, and by language minority organizations. Furthermore, there was consultation and there were meetings with the Commissioner of Official Languages, with representatives of Canada's language minorities and with other interest groups.

These in-depth debates that were remarkable for their frankness resulted in a piece of legislation that has been highly praised by both French-speaking and English-speaking Canadians across this country.

[*English*]

It has also been praised and supported by both opposition parties in the other place. Indeed, the Liberal official languages critic, Mr. Jean-Robert Gauthier, a member with many years of experience in the field of official languages, commended the government for its initiative in bringing the bill forward and indicated his party wished to see it adopted as soon as possible.

In addition, clarifications and improvements were made in response to concerns about the scope and precise meaning of some of the bill's provisions which were raised during the house committee hearings.

Honourable senators, I have taken rather a lot of your time to describe something of the historic background of this bill. It is a very long road, starting before Confederation, that has taken us here. I want to say with every confidence that this bill provides for a legislative framework that is fair, reasoned and balanced. It is forward-looking and reflects both Canada's linguistic reality and its aspirations. Bill C-72 will ensure greater linguistic equality of opportunity and justice for all Canadians and thus merits the support of all honourable senators.

Hon. Senators: Hear, hear!

Hon. Dalia Wood: Honourable senators, as the joint chairman of the Standing Joint Committee on Official Languages, it gives me pleasure to speak in the debate on second reading of Bill C-72, respecting the status and use of the official languages of Canada.

I listened with great interest to Senator Murray, a senator who has worked very hard as a member of the Joint Committee on Official Languages and, later, as joint chairman, under whom I was very pleased to serve. However, I disagree with the ramifications of the Meech Lake Accord on Bill 101, Quebec's Charter and Quebec's jurisdiction over languages, although you will see that in other areas I agree entirely with Senator Murray.

I should now like to give you my view of Bill C-72.

As you know, since its passage in 1969 the Official Languages Act has not been amended in any way, despite numerous requests for changes from the Standing Joint Committee on Official Languages, the Commissioner of Official Languages and linguistic minority communities. Moreover, approximately 30 private members' bills concerning the Official Languages Act have been tabled in the House of Commons since 1970.

The requests for change were prompted by a weakening of the scope of the act as a result of court decisions, such as those by the Federal Court in the case of *L'Association des Gens de l'Air du Québec*. These decisions pointed out two major weaknesses in the act: first, the act's declaratory rather than executory nature, which means that no remedy is provided through the courts but only through complaints to the Commissioner of Official Languages; and, second, its lack of primacy over other federal enactments.

The coming into force of the Canadian Charter of Rights and Freedoms in 1982 reduced the usefulness of the act even further because of its constitutional nature and because of the opportunity it provided to citizens to seek redress through the courts under section 24. However, the linguistic rights guaranteed in sections 16 to 22 of the Charter express principles only, and are not implementation mechanisms. The constitutional provision is not sufficient for the enforcement of its principles. A modification of the Official Languages Act was, therefore, necessary for the implementation of bilingualism in language of service, language of work and equitable participation, in conformity with the provisions of the Charter.

With this need to reform the present act, the government wanted to make the Official Languages Act conform to the Charter to define how the latter would be enforced and to introduce additional rights. There are enough new elements in Bill C-72 to justify the repeal of the existing act and its replacement with the proposed legislation.

Let us look at some of these changes. Bill C-72 contains a preamble and 111 clauses set out in 14 parts, as compared with the 39 sections of the present act. It therefore contains several new elements, such as language of work, equitable participation of English-speaking and French-speaking Canadians, the advancement of French and English, the responsibilities of Treasury Board in this regard and court remedy.

• (1600)

The very presence of a preamble, rare in public law, is evidence of the importance accorded to the bill, because section 12 of the Interpretation Act stipulates that the preamble of an enactment shall be read as a part of that enactment intended to assist in explaining its purpose. Thus, a preamble is an interpretation provision which may be used in the future.

It is also interesting to note that the preamble assigns responsibility to the federal government for the advancement of official languages whereas the 1987 Constitutional Accord, the Meech Lake Accord, assigns the task of safeguarding the language to both the federal and the provincial governments, with Quebec given the added responsibility of promoting its own distinct character.

Bill C-72 has a threefold purpose: first, to ensure the equal status of the two official languages; second, to support the development of official language minority communities and advance the equality of status of the two official languages; and, third, to set out the powers, duties and functions of federal institutions in this area. It is sad that the government has decided to change the original wording of section 2 of the bill, which refers to strengthening federal official language legislation.

The definitions in the bill are a step forward in that they specify the concept of "federal institution". With the specific reference to both houses, there will be no more questions concerning the application of the Official Languages Act to Parliament. It has been politically uncomfortable to be

charged with overseeing the application of the present act when, legally speaking, we are not even covered by it. It is also interesting to note that Bill C-72 provides for simultaneous interpretation of the debates and other proceedings of Parliament, which at present is neither a constitutional nor a statutory right. Simultaneous interpretation was provided, following an order of the House in 1958 and the adoption of a Senate report in 1960. This is indeed a tribute to the mutual respect which each linguistic group has for the other.

[*Translation*]

However, it would have been desirable to extend the definition of crown corporations to cover subsidiaries that are not 100 per cent owned by such corporations, since selling a mere 1 per cent of the capital stock of one of these subsidiaries would be sufficient to exempt it from compliance with the bill. This definition does not go as far as the Commissioner of Official Languages would have wished, when he suggested in February 1986 that the legislation apply to all subsidiaries where a substantial percentage of the shares are owned by crown corporations. In its report in 1983, the Special Joint Committee had also recommended the legislation should apply to semi-public companies. Interestingly, the bill makes no mention at all of the privatization of crown corporations. One wonders why, when we realize that it was Canadian taxpayers, both Anglophones and Francophones, who made it possible to create these corporations.

[*English*]

We should appreciate the bill's requirement that the federal government must make agreements between Canada and other countries, and in some cases between Ottawa and a province or provinces, available in both official languages. However, not all federal-provincial agreements would be covered, despite recommendations made by the former Commissioner of Official Languages, Mr. Maxwell Yalden, and the representatives of the Fédération des Francophones hors Québec before the Standing Joint Committee on Official Languages in 1982 as well as by the committee itself in its report to Parliament of April 1982. I hope that this regulation will be interpreted broadly so that it covers as many federal-provincial agreements as possible. I would appreciate having some clarification of how this provision would be implemented in an agreement between the Province of Quebec and the federal government. Would the agreement be in French only? Would English and French be used in certain matters, such as education?

Concerning the administration of justice, the bill specifies that a judge or judges would have to understand, without the assistance of an interpreter, the official language or languages in which proceedings were conducted. This provision will correct the situation resulting from the 1986 decision in the case of the *Société des Acadiens du Nouveau-Brunswick*, where the Supreme Court of Canada ruled that the right to use English or French in any proceeding or pleading before a federal court, prescribed in section 19(11) of the Charter, does not include the right to be understood. Nobody can contest the addition of such a provision. However, I hope that judges will be truly bilingual so that they can support the linguistic rights of the people. It is not enough to provide a right; the follow-up is just as important. One wonders why there should be a further five-year delay for almost all federal courts, such as the Canadian Human Rights Tribunal, the CRTC and the National Parole Board, when application will be immediate for the Federal Court of Canada and the Tax Court of Canada.

In the same matter, I am of the opinion that Bill C-72 should also impose an obligation of bilingualism on the Supreme Court of Canada. Though the composition of the Supreme Court bench may make implementation more difficult, I share the opinion that there is a place for some obligation on the part of the Supreme Court, due to the importance and the role of this institution. Perhaps the requirement to understand without the assistance of an interpreter could be imposed on only the presiding officer. This would be feasible, considering that six of the nine present judges of the Supreme Court of Canada are already bilingual. It is our role, as legislators, to look at this problem.

Communication with the public, like language of work and equitable participation, is a pillar of bilingual policy in Canada and is provided for in section 20(1) of the Charter. Thus, every federal institution has the duty to communicate with the public in English and French within the National Capital Region, from its headquarters and wherever there is a significant demand. It appears that most remains to be done in the last respect. The bill would repeal the notion of bilingual districts, which was never implemented because of its complexity and the arbitrary allocation of districts on a territorial basis. Unfortunately, the concept of significant demand is still undefined and will have to be specified by regulation. I think it would have been appropriate to provide such a definition in this act, but the government has decided not to follow that course. Moreover, I would appreciate having clarification of how these provisions will affect communications with the anglophone public in the province of Quebec. Also, in regard to communication with the public, I applaud the bill's provision for "active offer" of bilingual services so that the public will know when such services are available.

[*Translation*]

Provisions relating to the language of work and participation of English-speaking and French-speaking Canadians reinforce the provisions of the 1973 parliamentary resolution by giving them force of law. It is indeed fortunate that these concepts were made an integral part of the legislation instead of continuing as part of the parliamentary resolution.

The bill provides minimum criteria for the bilingual capability of supervisors and senior management. As in the case of communications with the public, the extent of rights related to the language of work will be laid down in the regulations. However, the procedure for putting such regulations in place has been made far more complex as a result of persistent demands.

For instance, a draft of the proposed regulation shall be tabled thirty sitting days before it is published in the *Canada Gazette*, and the proposed regulation shall be published in the

Canada Gazette at least thirty sitting days before its effective date, to allow interested persons to make representations to the President of the Treasury Board. With respect to the designation of bilingual regions or areas in this country, proposed regulations shall be tabled thirty sitting days before their effective date. Each house shall vote on any motion to disapprove of the proposed regulation signed by thirty members of the House of Commons or fifteen senators. If motions are received by both houses, the latter shall vote on the proposed regulation. A form of veto is therefore implicit.

[*English*]

Concerning equitable participation, the bill provides that the composition of the work force of federal institutions must reflect the presence of both official language communities of Canada. I hope that this provision will help to correct the present lack of English-speaking Canadians in the federal work force in the province of Quebec. Here again, follow-up is essential for the achievement of linguistic rights.

One of the most interesting parts of the bill is that relating to the advancement of English and French, an aspect already being looked after through existing programs of the Secretary of State. As you know, bilingualism is not a matter that concerns only the federal level of government. Although Bill C-72 has mandatory provisions regarding federal institutions, there are also some important provisions concerning other levels of government, such as the provinces.

I believe the Secretary of State should work actively to advance the equality of status and use of English and French in Canadian society. Although these provisions are included in the bill, I have some doubts concerning the will to implement them, especially following the statements of Mr. Rémillard, the present Minister of Justice of the Province of Quebec, who is responsible for federal-provincial relations concerning compliance with Bill 101, and the permissive reaction of the Secretary of State of Canada, Mr. Lucien Bouchard. I would like to know from the Secretary of State or the Minister of Justice whether my understanding of Part VII of the bill is correct or if there is another interpretation.

• (1610)

As I said earlier, a main aspect of the current act is the absence of court remedy. Even a complaint system would be a good thing, if there were also the political will to support it. Unfortunately, nothing can ensure such will. The advantage of having a court solution will be to impose a remedy that political power cannot impose. This is the perfect illustration of how the act can conform to the Charter. Moreover, I agree that the Commissioner of Official Languages should have the right to go before the court on behalf of a plaintiff. The cost of such a remedy would, in that case, be assumed by the commissioner's office. Lastly, the commissioner's expertise in linguistic matters would be invaluable in these linguistic cases.

[*Translation*]

As Joint Chairman of the Standing Joint Committee on Official Languages, I am also delighted to see that the bill provides for a specific role for a committee of the Senate, of the House of Commons or a joint committee, which, I hope, will be the present one. Its role will be to review the application of the bill, its regulations and directives, and the implementation of the reports of the Commissioner of Official Languages, the President of the Treasury Board and Secretary of State. Better dissemination of information by central agencies, thanks to these annual reports, will undoubtedly help the committee to be as effective as possible.

Finally, I am glad to see that the bill expands the rights of the accused, which include the right to bilingual forms, to public proceedings and a written judgment in their own language. However, what is even more important is the implementation of rights provided under Part XIV.1 of the Criminal Code across this country as of January 1, 1990.

[*English*]

In conclusion, although the government has been slow in this matter since the first reading of the bill on June 25, 1987, the present version, incorporating amendments adopted by the legislative committee of the House of Commons, is, for the most part, satisfactory, although I still prefer the original wording, which referred to strengthening the laws of Canada relating to official languages.

My satisfaction ensues from the bill's main features, which are: its quasi-constitutional nature, as shown in its primacy over other instruments; its executory nature; its incorporation of the parliamentary resolution of 1973; and its wording, which is more explicit than that in the present act.

I am pleased with most of the proposed legislation on official languages in Canada, but the importance of this matter makes it legitimate to demand some clarification of how it will be implemented.

[*Translation*]

Hon. Louis-J. Robichaud: Honourable senators, I don't intend to make a speech. I simply want to direct a few comments to the government.

Although it has taken the government some time to table C-72 in Parliament, I think that nevertheless it has done an excellent job and deserves our congratulations.

The Leader of the Government in the Senate is also to be commended for his comments this afternoon when he explained the tenor of Bill C-72.

Senator Wood, the Joint Chairman of the Standing Joint Committee on Official Languages, also made a number of comments and noted some of the bill's defects. I agree the bill is not perfect—no legislation ever is. However, it is a step forward, and I repeat that the government acted wisely in tabling Bill C-72, because it wasn't easy.

[*English*]

It was not easy for this government to pass Bill C-72—I know something about that—but it had the courage to go through with it and to implement what the Leader of the Government in the Senate has referred to this afternoon as a measure of justice, tolerance and respect for each other's culture.

An Hon. Senator: Hear, hear!

Senator Robichaud: As was pointed out by Senator Murray, that trend may have started with the B & B Commission, on which Senator Frith served as a commissioner. It submitted its report in 1967, and the government of the day saw fit to implement most of the recommendations of that commission.

Honourable senators, the Province of New Brunswick did likewise. In Canada it was not easy to implement this sort of measure; in New Brunswick it was not easy, either. The Acadians constitute 33 per cent of the population of that province. We were faced with a dilemma in implementing one portion of the recommendations that called for the creation of bilingual districts. I looked at the map of New Brunwsick and I would have had to divide it up like some sort of jigsaw puzzle. I was not happy with that, so I submitted to my caucus the idea of making the whole province a bilingual district. That was agreed to unanimously.

In 1969 Richard Hatfield was the leader of the opposition. I know, because he told me subsequently, that he had difficulty in his caucus, but in the legislature official bilingualism was adopted unanimously, and we were pleased. Actually, even today, 19 years later, New Brunswick remains the only officially bilingual province in Canada. We are proud of that fact. As I have said, it was not easy, but it can be done.

Honourable senators, we will forever find difficulties with this proposition. We in New Brunswick have opponents to official bilingualism. Although their number is dwindling, they still exist. Perhaps they help the cause of bilingualism by exposing themselves publicly on occasion.

The Leader of the Government in the Senate mentioned the possibility that Ontario might eventually become bilingual. That would be a step forward. That would be great, and the number of people in Ontario who are in opposition to that concept is smaller and smaller by the year. I know that official bilingualism is not hurting anybody. It is helping everybody, and that is a fact. Some people think they are going to lose something through official bilingualism. That is just not so. The Francophones do not want to take anything away from the Anglophones, and that holds true for the people in the province of Quebec. They want their rights to be recognized throughout the country, and that is what all Canadians should want—equal rights from Bonavista to Victoria.

Honourable senators, I repeat that I am happy with the measure taken by the government and I was favourably impressed, indeed, by the remarks made this afternoon by the Leader of the Government in the Senate.

Hon. Douglas D. Everett: Honourable senators, although I did not intend to enter into this debate, in listening to the presentations that have been made here today, I feel it incumbent upon me to say something which I am reasonably sure will not find great favour in this house, and perhaps will not find great favour in certain parts of the country.

● (1620)

I would start by saying that I am in favour of this legislation and I will vote for it, because I believe that the policy of bilingualism in Canada is the right policy. I have been in favour of it since it first arrived in the form of legislation and the form of a very forward thought.

However, there is something going on in Canada that is a real danger to the concept of bilingualism. I can only speak for my province of Manitoba, perhaps with some knowledge of the prairie provinces and a little knowledge of B.C. My purview is geographically limited. Nonetheless, I have to tell you that in my province and throughout western Canada I believe there has been a certain amount of bad will—but also a lot of good will—towards the concept of bilingualism.

Many people in western Canada are ensuring that their children become bilingual. They are not doing it because they are being forced. They are doing it because they feel that it is the right thing to do, that they are making the true Canadian, who has a real cultural difference as between his or her nationality and that, say, of the United States. So that good will is there, and it will grow and continue to grow.

But there is something going on in the province of Quebec that distresses us greatly in western Canada; there is a strong feeling that is portrayed to us that Quebec wants to become unilingual and that the English minority in Quebec is not receiving fair treatment. I say that that feeling exists in western Canada. It exists because of Bill 101; it exists because English signs posted by Zeller's are torn down. It exists because Mr. Bourassa finds it difficult to live up to his election promises. There is concern, and I believe that Quebec can damage the very worthwhile concept of bilingualism if it is not careful. That is something that is an obligation on Quebec just as much as it is on my area of western Canada.

There is another part of it that distresses me greatly, and that is the actions of the federal government in respect of minority linguistic rights, for example, in Manitoba as opposed to those that exist in Quebec.

When the matters of the rights of the French minority in Manitoba to have bilingual legislatures, statutes in both official languages, and the right to appear before the courts in either language came forward, there was an immediate appeal to the Supreme Court of Canada, which was financed by the federal government. The Supreme Court of Canada decided that the statutes had to be translated. That has been done and, I believe, is largely completed at this stage. However, the federal government went one step further. It decided that Manitoba should be officially bilingual. A joint resolution was passed by both houses of Parliament, calling upon Manitoba to become bilingual. There was enormous pressure put on Manitoba to become officially bilingual. That did not happen. I personally think it is regrettable that it did not happen. I wish it had, but, nonetheless, it did not.

If we compare the actions of the federal government in respect of Manitoba's intransigence on bilingualism with what has happened over Bill 101, there is quite a startling contrast. I do not see that the federal government has assisted the English linguistic minority in Quebec to bring the matter before the Supreme Court. So as far as I know, no funds have been given

to them for that purpose, although I may indeed be corrected on that. I have not heard any ringing speeches in Parliament. I have not heard of a joint resolution of the Parliament of Canada calling on Quebec to get rid of Bill 101.

So I say to you this, honourable senators: I am very much in favour of Bill C-72. I think it is a great step forward, but it will take as much good will on the part of the French in the province of Quebec as it will take on the part of the non-French in the rest of Canada to make it work. When Manitoba is wrong and when Quebec is wrong, it will take fortitude on the part of the government and the Parliament of Canada to stand up and say, "You are wrong." If that is not done, then the process of Bill C-72 and the very worthwhile attempt to make Canada a bilingual country will fail.

[*Translation*]

Hon. Philippe Deane Gigantès: Honourable senators, I am a Quebec allophone. I would like to set the record straight on certain things that were said by Senator Everett. There is no comparison at all between these cases. I know the Government of Quebec has a serious problem with the language on signs. However, there are English schools in Quebec wherever there are Anglophones. These schools are operated by the Anglophones themselves, and that includes elementary, secondary, college or university level.

For instance, McGill University is one of the academic glories of this country. It is located in Quebec. It may be true that grants to anglophone universities have not been as generous as those to francophone universities in Quebec. However, some francophone universities had a lot of catching up to do, and that has now been done.

It would be unfortunate to compare the situation in Manitoba with the situation in Quebec.

I deplore the attitude of some Quebecers for whom extreme dedication to the exclusive use of French has taken the place of what in the past was an unqualified dedication to the Catholic faith.

In all countries and all parts of Canada, there are people who hold extreme opinions. Generally, however, all the polls show that tolerance for the English fact is very high in Quebec.

If the Government of Quebec has some problems with its opposition, I hope it will deal with them. I don't think it is fair to compare the treatment of Anglophones in Quebec with that of Francophones in Manitoba, Alberta or Saskatchewan. It would be comparing apples and oranges.

[*English*]

When it comes to the west, one has to say about the treatment of the Francophones, "When did you stop beating your wife?" In Quebec, at most, they might say, "Why are you slapping your wife's wrist?" Those are the relationships: a big whipping on the one side and a gentle tap on the other.

Senator Everett: Honourable senators, I rise only because I believe my remarks have been totally misinterpreted by the honourable senator. I shall not debate with him on a phrase-by-phrase basis.

It is not the comparison between how the minorities are treated in the various regions of Canada. Rather, my point is that there has been a hardening of attitude in Quebec toward the concept of bilingualism, and I think that is dangerous at a time when the attitude in western Canada, in any event, has been largely one of increasing good will, as Senator Murray has said. That is what I am concerned about. I am even more concerned that in the implementation of this act no fear or favour be shown in respect of any region of Canada in ensuring that the act is implemented properly.

• (1630)

Hon. Joseph-Philippe Guay: Honourable senators, I should like to tell Senator Gigantès that we do not beat or slap our wives out west.

On motion of Senator Guay, debate adjourned.

RAILWAY SAFETY BILL

CONSIDERATION OF REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Transport and Communications (Bill C-105, to ensure the safe operation of railways and to amend other acts in consequence thereof, with one amendment) presented on Thursday, July 7, 1988.

Hon. Charles Turner: Honourable senators, Bill C-105 is the Railway Safety bill. This transfers the responsibility for railway safety regulation from the Canadian Transport Commission to the Minister of Transport. It also makes the railway companies fully responsible for the safety of their systems, yet gives the Minister of Transport full powers to ensure compliance. It also streamlines the approval process to ensure a more effective regulatory framework, which will keep regulations up to date into the 1980s and 1990s, and will encourage new technology to improve safety on all railroads in Canada. The Governor in Council may make regulations to ensure control over the use of alcohol and drugs in the railroad mode—after, I hope, full consultation with all the railroads and the railroad brotherhoods, especially the employee rehabilitation programs.

Honourable senators, during the committee hearings there appeared to be no standard rules for medical examinations of employees of the railroads of Canada. I believe the CNR said there was a medical every two years; CP stated that they had no medical for operating employees until they reached age 40, and I think it was yearly thereafter.

The amendment to clause 35, Part I, will require persons who are employed in positions critical to the operations of railway systems—the running crews, the dispatchers and others—to have a company-sponsored medical examination, including eye and hearing examinations, at least every 12 months. This standardizes the rules.

As honourable senators know, our chairman, Senator Léopold Langlois, resigned his position on his doctor's orders. On behalf of the committee we wish him a speedy return to full health and thank him for his leadership roles for many years.

Hon. Senators: Hear, hear!

Senator Turner: As acting chairman, I wish to thank all Senate Transport Committee members, witnesses, the officials from Transport Canada and the staff for their advice and help during the meetings.

Honourable senators, I move the adoption of the report.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Turner, seconded by the Honourable Senator Adams, that this report be now adopted. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have been asked by Senator Stewart of Nova Scotia to adjourn the debate in his name.

On motion of Senator Frith, for Senator Stewart, debate adjourned.

CANADIAN MULTICULTURALISM BILL

SECOND READING

Hon. Efstathios William Barootes moved the second reading of Bill C-93, for the preservation and enhancement of multiculturalism in Canada.

He said: Honourable senators, we have just had the pleasure of listening to one of the most historic debates that will take place in this house. I now rise with great pleasure to begin the debate on what I believe to be another historic piece of legislation: Bill C-93, an act for the preservation and enhancement of multiculturalism in Canada. The short title is the Canadian Multiculturalism Bill.

Honourable senators, I want to emphasize at the beginning that all three parties in the House of Commons came together to approve this most historic piece of legislation. In addition, the Canadian Ethnocultural Council, embracing, as it does, 37 national groups, and the Canadian Committee for Racial Justice, consisting of some 35 to 40 regional groups, endorse this legislation and urge its speedy passage.

I wish to add that I have observed on Parliament Hill today Mr. Lewis Chan, President of the Multicultural Ethnocultural Organization; and up until a few moments ago I was also pleased to recognize in the gallery Andrew Cardozo, Executive Director. I am sure they are here anxious to urge us to proceed rapidly with this bill.

We now have before us an historic bill. We now have the opportunity to recognize, accept and embrace the multicultural reality of this country.

Honourable senators, today I should like briefly to outline the contents of Bill C-93 and to show you how it has been systematically improved by the cooperation of all parties in the other place and how this bill reflects the contemporary realities of Canada and sets a course for our future as a dynamic and cosmopolitan nation, playing a key role on the world stage.

Honourable senators, let us examine this bill for a few moments. The bill before us begins with a comprehensive and forceful preamble.

We heard from Senator Wood the import of the preamble in a bill, act or statute of Canada. This preamble reminds us all of the great cornerstones of our society's major principles and values.

The Canadian Multiculturalism Bill is founded on the guarantees of equality that are contained in section 15 of the Canadian Charter of Rights and Freedoms and also in the multiculturalism clause of the Charter, clause 27.

• (1640)

This bill is rooted in landmark legislation which ensures equality and equal opportunity for all Canadians. But, as we shall see, it is fundamentally different from our human rights and anti-discrimination legislation. Rather, it is a component of a Canadian identity which includes the Official Languages Act, the Citizenship Act, and this multiculturalism legislation.

First and foremost, Bill C-93 states that multiculturalism is a fundamental characteristic—keep those two words in mind—of our heritage and of our evolving identity. This, honourable senators, is a major achievement. It is a landmark in the recognition of how this country was formed, where we have been and where we are going. I cannot overemphasize the importance of this factor: the strength of this multiculturalism policy for Canadians.

This is a legislative policy statement of the Parliament and Government of Canada. It is far more than merely a policy of the government of the day; a policy which could be eradicated with the stroke of a pen. By enacting this Canadian Multiculturalism Bill, and thus the multiculturalism policy of Canada, we are putting into place concrete assurance of this nation's recognition of multiculturalism.

The multiculturalism policy of Canada provides a comprehensive framework by which the Government of Canada will promote multiculturalism in all aspects of Canadian society. Let me list a number of examples: First, the Government of Canada will recognize the existence of communities whose members share a common origin and recognize the historic contribution of these communities to Canadian society. Second, the Government of Canada will promote the full and equitable participation of all individuals and communities in all aspects of Canadian society. Third, the Government of Canada will encourage all the institutions of our society—financial institutions, educational institutions, other governments and, of course, the voluntary sector—to be respectful and inclusive of Canada's multicultural character.

The full weight of the multiculturalism policy of Canada is to provide a comprehensive, pro-active and cooperative approach to ensuring equality within this nation.

This policy is not about extending additional rights to individuals or groups. This policy is about ensuring equality; it is about working together; it is about cooperation and consensus to build a nation.

We are all aware that we in Canada enjoy one of the world's most comprehensive legislative packages to protect us from discrimination. This bill does not supplant the Charter of Rights and Freedoms or the Canadian Human Rights Act, the

Employment Equity Act or the provincial human rights codes. Rather, it complements them by reaching out to build a better and fairer society. It commits the Government of Canada to a pro-active program of building a nation where the worth of all Canadians is sought and valued.

Honourable senators, you will note that clause 3(2) of the bill specifies that all federal institutions shall—and I emphasize the word "shall"—carry out the multiculturalism policy of Canada. This ensures the leadership role of the federal government. We must place our house in order before we can expect others to follow our leadership.

I would now like to turn to the issue of how multiculturalism policy in Canada will be implemented by the government, and specifically within its federal institutions. Clauses 4 and 6 of the bill address these matters.

Clause 4 of the bill specifies that the minister designated responsible for the implementation of the multiculturalism policy in Canada will provide advice and assistance to his cabinet colleagues in developing and implementing programs and practices to support this policy. Clause 6 clearly states that every minister is responsible for implementing the multiculturalism policy of Canada in his or her own area of jurisdiction. These two clauses—clauses 4 and 6—constitute a solid, cross-government commitment. Multiculturalism becomes more than merely a program within one sector of one department; it becomes a program for every department and for every federal institution.

Honourable senators, why is this necessary? It is necessary in order to ensure that the broad policy commitments which this bill contains will be implemented. It is necessary to ensure that the government will lead by example.

Honourable senators, you may be aware that only a few weeks ago the Minister of State for Multiculturalism, the Honourable Gerry Weiner, announced considerable increases in the multiculturalism budget and for the new directions of multiculturalism programs which strengthen the commitments that are contained in Bill C-93. In fact, the total expenditure in the next five years will be $192 million, of which $62 million will be new, additional dollars within that five-year period. This government is building for the future, and I think that should be evident to all of us here today.

Clause 9 of the bill requires that the Minister of State for Multiculturalism submit to Parliament an annual report on the operation of this policy. This is more than a report on merely his or her own activities in the delivery of specific multiculturalism programing. The Honourable Gerry Weiner, and before him the Honourable David Crombie, pledged that this report would explain how the multiculturalism policy of Canada was being implemented in every federal institution. This, again, is a key element of the cross-government commitment of this bill and its accountability mechanisms.

This report will be tabled before both houses of the Parliament of Canada. It will address the whole spectrum of the execution of programs of multiculturalism in Canada. Furthermore, clause 10 of the bill states that the report will be reviewed by a committee of the House of Commons and by a committee of the Senate, or conjointly, as may be designated or established for that purpose.

Honourable senators, the bill we have before us today, which received third reading in the House of Commons yesterday on a unanimous basis, is considerably stronger than the one first introduced in Parliament some seven months ago. First and foremost, the bill was strengthened by stating clearly and precisely that multiculturalism is a fundamental characteristic of our identity and heritage. That was something our ethnic societies were very anxious to see incorporated in the bill, and that has now been done. That was a key proposal of the Canadian Ethnocultural Council and of many other representative organizations.

A second important amendment emphasized that every federal institution "shall" implement the multiculturalism policy of Canada, instead of the weaker earlier wording, "should". I cannot overstate the significance of this simple one-word amendment.

Honourable senators, at the outset of my remarks today I said that this was as a world-class bill and a world first. Yes, it is a world first, and we must not forget the differences of our origins, our traditions and our cultures, because among us there are no limitations but a great enrichment which we can all share together. I should like to remind each and every one of us that our cultural and racial diversity is as old as time in this land. It is about the diversity of Canada's first people, our aboriginal people. It is about the Inuit and about the Dene. It is about the coming together of the Six Nations of the Iroquois. It is about Giovanni Caboto—some of us call him John Cabot. It is about the Black Loyalists who came here after the American Revolution, and it is about Mennonites who came to parts of this country in the 19th century.

• (1650)

Honourable colleagues, my point is this: From the outset this country has been the product of people from all corners of the world. It belongs to all of us, and all our heritages together make up our Canadian heritage.

Senator Haidasz: What about our Newfoundlanders?

Senator Barootes: We include them as well.

Honourable senators, I want to conclude my remarks today by saying that the Canadian Multiculturalism Bill which we are considering here will be an historic document of which we should all be proud. We are privileged to have such a bill before us—such a bill brought to this house from the other place with the unanimous consent of all parties and all members. This bill is an important step in the evolution of this nation. Today we in this chamber are together writing another page in the history books of Canada.

Hon. Senators: Hear, hear!

Hon. Peter Bosa: Honourable senators, I am pleased to take part in this debate on Bill C-93, for the preservation and enhancement of multiculturalism in Canada, as I have been

very much involved with this subject, dating back to 1963 when the Bilingual and Bicultural Commission was formed.

Before dealing with the substance of the bill, I should like to put on record, as concisely as possible, the history of the policy of multiculturalism.

The federal multiculturalism policy was first established over 16 years ago on November 8, 1971. At that time Prime Minister Pierre Trudeau introduced a resolution into Parliament, which was supported by all parties in the house. That resolution committed Canada to a multicultural policy within a bilingual framework. By that time bilingualism had already been adopted as federal policy. The Royal Commission on Bilingualism and Biculturalism recommended that both English and French be given official status, and that was done with the Official Languages Act on July 25, 1969. But the B & B Commission also recommended that no particular culture or cultures should be declared dominant; instead, all of Canada's cultures should be treated with equal respect under a policy of multiculturalism, which meant that Canada did not have an official culture.

[*Translation*]

In the seventies, considerable progress was made in implementing the policy on multiculturalism. The United Nations proclaimed 1971 as the International Year of the Fight Against Racism and Racial Discrimination.

Wholeheartedly supporting this initiative, Canada took its cue and proclaimed the first decade of the fight against racism and racial discrimination.

[*English*]

In early 1972 a body called the Multiculturalism Unit was set up within the Department of the Secretary of State. A number of programs of the Citizens' Cultures Division of the Citizenship Branch of the Secretary of State transferred into this new Multiculturalism Unit and subsequent programs were added over the years.

The first minister responsible for multiculturalism was also appointed in 1972. He was Dr. Stanley Haidasz—now Senator Haidasz—a Toronto-born Canadian of Polish origin, who, at the time, was a member of Parliament representing the Parkdale riding. Dr. Haidasz was appointed on November 27, 1972, and served in that post for nearly two years.

Hon. Senators: Hear, hear!

Senator Bosa: In May 1973, during the first year of his appointment, the new minister announced the formation and membership of the Canadian Consultative Council on Multiculturalism. I am pleased to say that I served as chairman of that council for three years, from 1976 to 1979.

The council was intended to serve as an advisory group to the minister. In March 1984 the council changed its name to the Canadian Multiculturalism Council, but its role remained unchanged. The council's membership has varied between a high of 101 in May 1973 and a low of 30 in March 1984, but usually numbers around 60 members.

The Department of the Secretary of State also sponsored the establishment of the Canadian Ethnic Studies Advisory Committee in 1973. Out of those organizational efforts there emerged the Canadian Ethnic Studies Association. This association consists of a network of scholars studying ethnicity in Canada. They hold biannual conferences and publish a Canadian ethnic studies journal, all of which contribute to a better understanding of Canada's ethnocultural communities.

It was also during 1973-74, the program year, that the Canadian Identities Program was created within the Multiculturalism Unit. Under this program, ethnic histories were commissioned and assistance was provided for such projects as ethnic theatre, literature, handicrafts, folk art, et cetera. Almost immediately the Canadian identities program began providing assistance for various chairs of ethnic studies at different universities across the country.

One further development in 1974 was the initiation of the Canadian Heritage Festival as an annual celebration. That same year the Province of Saskatchewan, where Senator Barootes comes from, introduced the first Multiculturalism Act in Canada.

Each of the years 1976 and 1977 saw the publication of a milestone study on Canada's ethnocultural communities. The "Non-Official Languages" report was published by the Department of the Secretary of State in 1976. Based on an extensive survey, it concluded that many of Canada's non-official language groups did want provisions for their children to be taught their mother tongue so as to retain their cultural identities. In 1977 the cabinet responded to these concerns by approving the cultural enrichment program for the support of heritage languages.

The "Multiculturalism and Ethnic Attitudes in Canada" report was published by the Secretary of State in 1977. That report, which was also based on a nationwide sample, confirmed that, although multiculturalism was gaining public support, there was still evidence of considerable prejudice and discrimination across the country.

The government responded to the multiculturalism and ethnic attitudes survey by proposing the Canadian Human Rights Act, which was passed on July 14, 1977. When the act was proclaimed on March 1, 1978, the Canadian Human Rights Commission came into operation. The commission did appear to be having some problems handling complaints of racial discrimination for the first few years of its existence. Just recently, however, better training and investigation methods have been adopted; so we can expect better results from now on.

By 1978 the Multiculturalism Unit had had six years of experience in program delivery and development. Based on what had been learned over that time, a decision was taken to reorganize the Canadian Identities Program to include funding for educational resources development. This resulted in the production of supplementary learning materials on multiculturalism for public distribution. A media relations strategy on

multiculturalism was also developed as part of this reorganization.

● (1700)

The 1978 structural changes led to a more substantial reorganization the following year. A directorate was established with the mandate to increase citizen awareness of the issues involving multiculturalism. That was also the year the first study was commissioned to examine and recommend solutions to adjustment and integration problems faced by immigrant women.

Not only was 1981 the 10th anniversary of multiculturalism policy but it also witnessed some new beginnings of its own. A race relations unit was established within the multiculturalism directorate. The first national conference on immigrant women was also sponsored by the directorate. In addition, the directorate also participated in the first National Conference on Heritage Languages and in the first National Conference on Multiculturalism in Education. So 1982 represents a banner year for multiculturalism. First and foremost, there was the recognition of Canada's multicultural heritage enshrined in section 27 of the Charter of Rights and Freedoms. Judge Turnaposki, at a public meeting at the Columbus Centre in Toronto, attributed to Mr. Lawrence Decore, the Mayor of Edmonton, and myself the credit for the insertion of the clause in the Charter of Rights and Freedoms. I take great pride in that change. That same year the multiculturalism directorate developed a number of strategies to address the needs of immigrant women. The directorate also sponsored a national symposium on race relations and the law and a National Conference on Visible Minorities and the Media.

December of 1983 began a development in multiculturalism policy which led directly to the bill we are considering here today. That was the occasion of the appointment of the House of Commons Special Committee on Visible Minorites in Canadian Society. That committee spent three and one-half very productive months in public hearings and report writing. The result was the "Equality Now!" report of 1984, and the 80 recommendations made then continue to receive support both in and out of government to this day.

Of the many recommendations in the "Equality Now!" report, one in particular had a direct bearing on all subsequent developments. That recommendation was for the establishment of a permanent parliamentary committee on multiculturalism. On June 28, 1985, the Speaker issued a standing order creating the House of Commons Standing Committee on Multiculturalism, and it has been functioning ever since.

Right from the beginning the Multiculturalism Committee took its mandate very seriously. Deliberations were begun with a series of public hearings in the fall of 1985 and in the winter and spring of 1986. During that time a number of ethnocultural spokespersons were heard from, together with presentations from such umbrella groups as the Canadian Ethnocultural Council—the executive secretary of which is sitting in the gallery, Mr. Andrew Cordoza—and the Canadian Council for Multicultural and Intercultural Education. The committee also welcomed appearances by the minister responsible for multiculturalism and by other governmental officials.

During 1986 the committee decided to issue a public report as a way of making a contribution to multiculturalism policy-making. Once that decision was taken, the committee sought the widest possible input that would be compatible with being able to complete the report in a timely fashion. To broaden their perspective, committee members turned to the provinces for their experience with multiculturalism legislation, policies, programs and agencies.

From officials within the multiculturalism sector the committee learned that consultations had already been undertaken with many ethnocultural groups. The conclusions from those consultations were also made available to the committee.

Based on these inputs, a clear consensus emerged. That consensus was reflected in the committee's report, entitled "Multiculturalism: Building the Canadian Mosaic", which was tabled on the June 29, 1987.

The consensus that emerged from the committee's hearings and deliberations was reflected in the report's 18 recommendations regarding the future of national multiculturalism policy. Recommendation No. 1 called for a clear set of principles to be embodied in all future multiculturalism policy. These principles include equity, bilingualism, equality of opportunity, cultural diversity, elimination of discrimination, affirmative measures, enhancement of heritage languages, and support for immigrant integration.

Recommendation No. 2 lists the wide range of departments, agencies and programs that will be affected by an enhanced multiculturalism policy. These involve all three levels of government and broad policy areas, such as social policy, economic policy and cultural policy. Recommendation No. 3 calls for all relevant departments to implement new policy and for coordinating committees to be established to ensure effective results.

Recommendations Nos. 4 and 5, respectively, advise provinces and municipalities to develop and/or maintain their own multiculturalism policies and programs so as to complement federal efforts. Only in that way will multiculturalism become a living reality.

Recommendations Nos. 6 through 16 deal with the establishment and operation of a new multiculturalism infrastructure and department. To begin with, a full-fledged and independent department of multiculturalism is advocated. It is further suggested that to this new department should be transferred the multiculturalism sector, citizenship development and citizenship registration agencies from the Department of the Secretary of State. In addition, the report recommends that the new department should acquire the settlement program from the Canada Employment and Immigration Commission and the cultural support programs and responsibilities for the Canada Council from the Department of Communications.

Next, it was recommended that the budget of the proposed department of multiculturalism should be increased by 25 per

cent a year for at least four years. Then the new department should substantially increase its personnel, especially in the area of community development and liaison with the public.

The committee also wanted to see forthcoming better knowledge and advice on multiculturalism. Hence, it suggested the establishment of a Canadian centre for multiculturalism that will conduct research, develop a data bank on ethnocultural minorities and make information available to the public. The committee also proposed that the Canadian Multiculturalism Council should be reconstituted so as to be more representative of Canada's demographic distribution, and that it should reflect a grass roots view and maintain a more visible public profile.

Within the rest of the federal government, the following structural changes were recommended. A commissioner of multiculturalism was suggested to monitor federal implementation of multiculturalsm policy and report to Parliament on the results. That was not done. The position of Parliamentary Secretary to the Minister of Multiculturalism should get permanent status. Another proposal was that the Prime Minister needs a full-time multiculturalism adviser, and a further suggestion was that cabinet should establish a distinct committee on multiculturalism, to be chaired by the Minister of Multiculturalism.

Regarding intergovernmental relations, the committee recommended that a council of federal-provincial-municipal ministers responsible for multiculturalism should be created. And, lastly, the committee affirmed that efforts of the Federation of Canadian Municipalities to improve race and ethnocultural relations in municipalities across Canada should continue to get federal support and cooperation.

Of course, all 16 of these recommendations were contingent upon the introduction of an act respecting Canadian multiculturalism. The committee report set out an outline of such an act and suggested that the job of drafting it be undertaken by lawyers with a background of experience in human rights legislation.

What made all of these recommendations so remarkable was the wide consensus within the committee and the strong support of the ethnocultural communities across the country. What this created, in effect, was a window of opportunity for the government to move in a creative and substantial fashion. There was considerable anticipation through the summer and fall of 1987 as everyone concerned awaited the official government response to the committee report. In December the government tabled its response and introduced Bill C-93, the Canadian Multiculturalism Bill, for first reading.

● (1710)

Unfortunately, Bill C-93 is only a pale reflection of the recommendations contained in the Multiculturalism Committee's report. The government has accepted the idea of a multiculturalism statute, but it has rejected the recommendations for a full-fledged department, a full-time minister and an independent commissioner. What the bill represents, then, is form without much substance.

[Senator Bosa.]

This lack of substance becomes readily apparent once the bill is examined. There is a relatively lengthy preamble, making reference to various other statutes and conventions and to a number of clauses of the Charter of Rights and Freedoms. These are all very interesting and inspiring, but, since a preamble is not binding in law, such references are really not much more than political rhetoric. Until now multiculturalism policy has simply rested on a discretionary commitment by successive federal governments. As things currently stand, multiculturalism programs could be either drastically reduced or fundamentally redirected, a possibility which worries many ethnocultural groups. However, beyond giving current commitments legal status, the bill's provisions do not amount to much.
[*Translation*]

For instance, that part of the bill which deals with the multiculturalism policy of Canada contains ten policy statements. These attest to the government's will to promote the following principles: Cultural enhancement and cultural exchange; multicultural heritage and identity; equality and suppression of discrimination; recognition of the contribution of multicultural communities to our history; equality and diversity; the evolution of our main institutions in terms of the multicultural character of Canada; mutual understanding among the various groups; cultural enhancement; promotion of other languages within a bilingual context; and harmony between multiculturalism and bilingualism.
[*English*]

Subclause 3(2) of the bill contains a further six paragraphs on federal institutions, whose objectives can be summarized as follows: equal employment opportunity in federal institutions; policies which promote cultural contributions; policies which respect cultural diversity; collection of multicultural data to inform policy development; utilization of the cultural heritage of individuals, and sensitization of federal activities to multicultural reality.

The clause of the bill on implementation does not do much better. In this case there are 11 clauses to the minister's mandate, but they refer almost entirely to existing programs, as the following summary indicates: "Advance multiculturalism in Canada and abroad". This includes cultural exchanges and core funding for ethnocultural groups; "support ethnic studies and research", which refers to the chairs of ethnic studies and the writing and publications program; "encourage understanding between groups", referring to the intercultural communications program; "sensitize mainstream institutions", which refers to the cultural integration program; "preserve and enhance multicultural heritage", which refers to the performing and visual arts program; "facilitate heritage language use", which refers to the cultural enrichment program; "overcome racial discrimination", referring to the Proclamation of a Second Decade for Action to Combat Racism and Racial Discrimination, signed by the Prime Minister on March 21, 1986; "support those promoting multiculturalism", which refers to the group development program; and "undertake additional appropriate projects", which is a catch-all clause to include other programs now or in the future.

The new ground covered by this bill comes as a result of public pressure. Now multiculturalism is recognized as a "fundamental characteristic" in the preamble and in paragraph 3(1)(*b*) of the bill. Thus it is on a par with bilingualism. The idea of an annual report to Parliament on the government's progress in implementing multiculturalism is new, but, as specified in this bill, it is likely to cause problems. The final paragraph of the bill stipulates that a designated parliamentary committee be assigned the tasks of reviewing the annual report and monitoring the operation of the act. This means that the Standing Committee on Multiculturalism will have the joint responsibilities of examining the multiculturalism estimates, assessing the multiculturalism annual report and evaluating the multiculturalism sector's performance. These increased responsibilities will overload the committee, unless considerably more money and staff are allocated to them to do the job; yet there is no recognition of such needs anywhere in the bill.

These concerns are also echoed by members of the multiculturalism committee itself. Mr. Sergio Marchi, MP for York West, had this to say about the bill in a news release of December 1, 1987:

> This Bill can be best described as a missed opportunity. While legislating the principles of the policy is certainly a positive undertaking, the Minister has failed to provide multiculturalism with the same government support mechanisms that were extended to official bilingualism many years ago.

The obligation to implement multiculturalism in all federal institutions was strengthened as the commitment was changed from "should" to "shall".

The Canadian Multiculturalism Council was given an increased mandate to report to the minister on matters relating to the implementation of the act. This section could have been made stronger by giving this mandate to an independent commissioner. The problem remains that, if a federal institution neglects to do its part, there is no independent commissioner to report to Parliament.

Mr. Lewis Chan, President of the Canadian Ethnocultural Council, in a press release dated July 5, 1988, stated:

> Bill C-93 is much stronger today than when it was introduced seven months ago. It is now in a form that we can support and in a form that we would want to see entrenched in law. The Government and opposition parties have listened to us and improvements have been made. I call on all three parties to give speedy passage to Bill C-93 . . .
>
> We are still hoping that a more definitive monitoring mechanism can be introduced before passage, or alternately following a review of the legislation after its first year . . .

As founders of the policy of multiculturalism, we on this side of the house support this bill and are prepared to give speedy passage to it. We want Bill C-93 to become law as soon as possible. However, in future we will be pressing for some major amendments respecting the recommendations of the Multiculturalism Committee.

Hon. Stanley Haidasz: Honourable senators, I do not want to prolong the debate on Bill C-93, which was earlier explained to us by Senator Barootes and on which Senator Bosa, a long-time member of the Canadian Consultative Council on Multiculturalism, has made profound observations and reservations.

• (1720)

At the time of Confederation in 1867 there were not only the two dominant groups in Canada—the English and the French—but also the aboriginal peoples—the native Indians and the Inuit people and others. The original owners of this land, the native Indians and the Inuit, unfortunately, were neglected for a very long time.

I believe it is sad at this time, when we are discussing this bill, that the land claims of the Lubicon Band, who have significant title to their land, have not yet been settled. This problem has become an international concern. As the band dies slowly from tuberculosis and other diseases, it is disintegrating.

It is also significant that approximately 40 per cent of the inmates of Saskatchewan jails are Canadian native Indians, and that Donald Marshall, the subject of a current inquiry in Nova Scotia, spent 11 years in jail for a crime he did not commit—murder. The recent killing of the Canadian Indian leader, J.J. Harper, in Winnipeg further illustrates the treatment which our Canadian Indians have received in this country. The final verdict, absolving the policeman charged with the killing of J.J. Harper, was a clear travesty of justice and, I believe, made a mockery of the Canadian judicial system. There is also the sad event of the recent killing of a Canadian Black in Montreal by a policeman.

I only raise these points because something more than Bill C-93 should be done by this government. It was in the election campaign of 1984 that Brian Mulroney promised justice—not only a multiculturalism act and a separate department of government dealing with multiculturalism with a full minister to run such a department. This was also recommended by the House of Commons Committee on Multiculturalism, as referred to by Senator Bosa, but it was forgotten when this bill, Bill C-93, was written and given third reading and passed yesterday in the other place.

Section 27 of the Canadian Charter of Rights and Freedoms states:

> This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

Supporters of the Charter have suggested that this section will assist the courts to formulate decisions on specific sections that fall within the scope of multiculturalism. Section 27 purports to protect multiculturalism. Yet there has been very little judicial or academic consideration of what multiculturalism means within section 27.

We discussed this during our debates in this chamber on the Meech Lake Accord, another flaw in the Canadian Constitution, if it should be approved by the two remaining provinces of Canada. We should not forget that multiculturalism is a process. It must be distinguished from multiculturalism as a policy, which was enunciated in the House of Commons on October 7, 1971 by the Right Honourable Pierre-Elliott Trudeau, and supported by Mr. Stanfield, the Leader of the Opposition, by Mr. Caouette of the Créditistes and by Mr. Lewis, the Leader of the NDP. Since that time multiculturalism has grown. I had the responsibility, as the first Minister of State for Multiculturalism, to implement the policy. This policy has been built upon by ministers who followed me. Now we come to the present minister, Gerry Weiner, and this act, Bill C-93.

I will not repeat what Senator Barootes and Senator Bosa have stated this afternoon. Their remarks were true and full enough. However, along with at least one-third of the ethnocultural groups in Canada, I also regret that we do not have a full ministry of multiculturalism, with a minister, as was promised by Mr. Mulroney during the 1984 federal election.

Nevertheless, I would like to see this bill go to committee even today in order that it can be studied this evening or tomorrow, and hopefully given third reading and Royal Assent without delay. No act of Parliament is perfect. This was referred to earlier in a debate on Bill C-72 by my seat mate, Senator Louis Robichaud, whose native province of New Brunswick is the only bilingual province in Canada. However, as Senator Bosa has stated, we have hopes that this bill will be improved upon by further amendments either by this Parliament or the next.

Hon. Hazen Argue: Honourable senators, I had not expected to speak today. I had thought this debate might be adjourned and I would speak tomorrow. However, I will speak on it at this time.

I am happy, as others are, to see this bill before us and to see that it came from the House of Commons with the general support that it was given there. Senator Barootes delivered a very eloquent speech on behalf of the government, putting forth his perception of this legislation. That kind of speech sits well in this chamber.

Senator Bosa, taking something of a different course, pointed out the weaknesses that still remain, in our opinion, in this legislation, and he pointed out ways that it might be further improved. I would support those who believe there should be a full ministry of multiculturalism with a minister.

During my lifetime I have had the privilege to associate with many ethnic people in many walks of life. I have felt that Canadians coming to this country from many lands have made a very valuable contribution over the years. I am old enough to remember that when people came to Canada from central Europe in years gone by there was a feeling among many Canadians who were already established here that in some way—maybe some undefined way—those new arrivals were inferior and might or might not some day develop into Canadians of a stature equal to those already here. I have felt that element of discrimination. I believe that attitude is receding, and receding very far, which is most welcome.

We all realize that since the last war the ethnic mix in Canada has changed. This is not the country today that it was 30 or 40 years ago. It has been pointed out that those in Canada outside the Anglo-Saxon group, if I may say so, and outside the French group have been increasing until they number approximately 37 per cent. As I have visited with one ethnic group after another, I have had the feeling and the conviction that, because we have taken an enlightened attitude recently in this country to the contribution that can be made by our ethnic communities, those people from various ethnic backgrounds are very proud to be called Canadians. They count our country different from many other countries. There is a difference in attitudes. Our attitude is not the attitude of the United States, where the official policy is to have a cultural melting pot.

● (1730)

I think we have made great progress. We have a growing number of visible minorities. Compared to those in other countries, our visible minorities are making an equal contribution that compares favourably with that of all the remaining Canadians.

I think that it would be appropriate in the years ahead, as new senators are appointed, for the Senate to become a more accurate reflection of the ethnic mix of this country.

Senator Haidasz: Hear, hear!

Senator Argue: This is a welcome measure that makes considerable progress in this field, but further progress should be made.

I wish to add to my statement that the composition of the Senate should reflect the ethnic mix of the nation, and in considering appointments to the Senate in the future I should hope that the economic mix—labour, farmer, professional groups and so on—might be represented in this chamber in a more balanced way.

One of our greatest lacks today is that we do not have senators in this chamber who can be considered, in a proportionate way, to represent, for example, the labour movement. Can the government not mix together in its appointments in the future a Senate that reflects the ethnic mix of this country and reflects in a more general way the various professional and occupational groups in the country?

I am happy to support this legislation and I look forward to supporting legislation in the future that will make even more improvements.

Some Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I want to say one thing about this legislation.

I think it is necessary. I am sorry it is necessary, but it is, and I think it will be a great day when it is not, because the whole country will recognize that there is no division between

multiculturalism and something else, because it will be accepted that the whole of Canada is multicultural.

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?

Hon. Efstathios William Barootes: With respect, at the next sitting of the Senate.

Senator Frith: You are not moving that it go to committee?

Senator MacEachen: We wanted it to go to committee.

Senator Haidasz: Do you not want it to go to committee today?

Senator Barootes: I am pleased to accede to the wishes of the honourable senators on the other side—

Senator Frith: An important beginning!

Senator Petten: You are learning!

Senator Barootes: —and I refer it to the Standing Senate Committee on Social Affairs, Science and Technology.

Honourable senators, may I take this opportunity to do something I overlooked before, and thank those people who participated in this debate: first, Senator Bosa, who outlined to us a history of the development of multiculturalism and its legislation in Canada from his own past experience and stimulation of the growth of this awareness among Canadians; second, to my dear fellow professional, Senator Haidasz, who was our first minister in charge of this particular aspect of Canadian life and culture; and, third, to my friend, Senator Argue, who expressed for me the optimism for the progress of multiculturalism in Canada for the future.

Honourable senators, with those remarks, I thank you for this opportunity to move the reference of this to the committee.

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-FIRST REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixty-first report of the Standing Committee on Internal Economy, Budgets and Administration (collective agreement-operational group of employees), presented on Tuesday, July 12, 1988.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the report be now adopted.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. Jack Marshall: Honourable senators, I ask that all remaining orders stand.

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

Hon. Senators: Agreed.

MACEDONIA

DEBATE ADJOURNED

Hon. Philippe Deane Gigantès rose pursuant to notice of Tuesday, July 5, 1988:

> That he will call the attention of the Senate to the question of Macedonia.

He said: Honourable senators, I shall take 60 seconds of your time by beginning this and, with your permission, adjourning it until tomorrow.

What I want to talk to you about is a compressed version of private talks I had for some three hours with members of the Greek government while in Athens and Salonika during April as a member of a parliamentary delegation, and what they had to say about the Macedonian question, which seems to be affecting, in their minds, relations between Canada and Greece, potentially.

With your permission, I shall adjourn this until tomorrow.

On motion of Senator Gigantès, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, July 14, 1988

The Senate met at 2 p.m., the Honourable Gerald Ottenheimer, Acting Speaker, in the Chair.

Prayers.

CANADIAN EXPLORATION INCENTIVE PROGRAM BILL

REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Ian Sinclair, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, July 14, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-SEVENTH REPORT

Your Committee, to which was referred the Bill C-137, An Act to provide for incentives to assist in financing exploration for mineral resources and hydrocarbons in Canada and to amend the Canadian Exploration and Development Incentive Program Act, has, in obedience to the Order of Reference of Wednesday, July 6, 1988, examined the said Bill and has agreed to report the same with the following amendments:

1. *Page 2, clause 4:* Strike out lines 24 to 35 and substitute the following:

   "scribed expenses incurred after

   (a) September 30, 1988 in exploring for any hydrocarbon other than coal, or

   (b) December 31, 1988 in exploring for"

2. *Page 3, clause 5:* In the French version, strike out line 10 and substitute the following:

   "aux frais d'exploration admissibles engagés:"

3. *Page 5, clause 6:* In the French version, strike out lines 27 and 28 and substitute the following:

   "engagés au cours d'une année civile dans la mesure où est"

4. *Page 18, clause 29:* In the French version, strike out line 19 and substitute the following:

   "cours d'une année civile"

5. *Page 19, clause 29:* in the French version, strike out line 26 and substitute the following:

   "sibles ou qui découle de la fusion,"

Respectfully submitted,

IAN SINCLAIR
Chairman

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

Senator Sinclair: With leave, now.

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

Hon. Senators: Agreed.

Senator Sinclair: Honourable senators, in June 1987 the government released the white paper on tax reform, which contained a number of proposals that would decrease the attractiveness of flow-through shares. For example, the white paper proposed phasing out the 33 1/3 per cent mining exploration depletion allowance, capping the lifetime capital gains exemption at $100,000, increasing the inclusion rate for taxable capital gains from the existing 50 per cent to 66 2/3 per cent, and a year later to 75 per cent, and making other suggestions that affected the value of incentives to mining and exploration by hydrocarbon industries. These proposals were not completely offset by reductions in the personal rates of taxation.

The notice of ways and means motion introduced in December of last year modified the white paper proposals and extended by six months the period of exploration expenditures at 16 2/3 per cent by reducing the proportion of exploration expenses that will be required to be included in determining the net investment loss.

The result was to bring forth an outcry across the country from oil and gas companies, but particularly junior companies in that area and in the mining area. This was supported by mining communities throughout Canada and by flow-through partnerships. The government responded to these concerns and, in May last, announced what is known as the Canadian Exploration Incentive.

It should be noted that this incentive does not alter the government's tax reform proposals reflecting flow-through shares, with the exception of the extensions that I have mentioned: in one case to October and in the other case to the end of the year. However, it does change the way the matter is handled by providing direct grants to these junior companies at a rate of 30 per cent to a maximum of $10 million in annual expenses. Eligible expenses are currently qualified in the mining industry and in the petroleum industry and are incurred under a flow-through share agreement with the corporation and the investor, they being at arm's length.

This bill, which would implement the incentive program, was introduced in the House of Commons on June 27 and

passed the next day. The committee heard witnesses who were experts in flow-through shares and members of miners' and prospectors' associations—again, people knowledgeable in the field. In bringing forth this legislation, the government did so after numerous consultations with people knowledgeable in the field of flow-through shares and in the area of mining and oil and gas development.

There are to be regulations under the bill, and the necessity for these regulations to integrate closely the requirements of the Income Tax Act is being followed by the government and officials in consultation with people in the hydrocarbon and mining industries.

In his appearance before the committee, the Minister of State for Forestry and Mines, the Honourable Gerald Merrithew, urged the speedy adoption of Bill C-137. The purpose is to remove uncertainty concerning the investment environment, as I noted that 30 per cent of these expenses are covered for a period of two years.

The amendments we are proposing, honourable senators, cover a number of technical deficiencies. Four of them deal with bringing into cohesion the French and English provisions of this statute and they are not substantive at all. The first amendment is more substantive, but it is expansive and carries out the intention that the government had when the bill was first introduced, but which, because of drafting, did not carry that intention. This became evident after the passage of the bill by the House of Commons. The bill ensures that the expenses incurred by an issuing corporation, as well as expenses incurred by a joint exploration corporation—and an exploration corporation, in fact, could renounce its expenses to the issuing corporation—are covered by this statute.

Honourable senators, I ask your concurrence in this report and the amendments proposed.

Motion agreed to and report adopted.

THIRD READING

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

Hon. James Balfour: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill, as amended, be read the third time now.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, unless Royal Assent is provided for, one day's notice is usually given for third reading. In this case the bill is being adopted with amendments and will not receive Royal Assent, in any event. It seems to me that we could speed the process by abridging the time and sending the message to the House of Commons so it has the chance to arrive back here for Royal Assent on a day Royal Assent is provided for.

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, I concur with the remarks made by Senator Frith. The quicker the bill gets to the House of Commons, the earlier they will deal with it. The possibility exists that they will complete their agenda by the end of next week. If this could be placed on the Order Paper to be completed and returned to us, that would be most desirable.

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

Some Hon. Senators: Agreed.

Motion agreed to and bill, as amended, read third time and passed.

CANADA LABOUR CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. M. Lorne Bonnell, Deputy Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, July 14, 1988

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

TWENTIETH REPORT

Your Committee, to which was referred Bill C-124, An Act to amend the Canada Labour Code, has, in obedience to the Order of Reference of Wednesday, July 13, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

M. LORNE BONNELL
Deputy Chairman

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

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

• (1410)

CANADIAN MULTICULTURALISM BILL

REPORT OF COMMITTEE

Hon. M. Lorne Bonnell, Deputy Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, July 14, 1988

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

TWENTY-FIRST REPORT

Your Committee, to which was referred Bill C-93, An Act for the preservation and enhancement of multicultur-

alism in Canada, has, in obedience to the Order of Reference of Wednesday, July 13, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

M. LORNE BONNELL
Deputy Chairman

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

Hon. Efstathios William Barootes: With leave, now.

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

Hon. Royce Frith (Deputy Leader of the Opposition): No. As we explained, honourable senators, there is no point in giving the bill third reading now unless there is provision for Royal Assent today. Of course, we would gladly give it third reading now if Royal Assent were provided for, but it is not going to become law today, in any event, so there is no reason not to follow our rules and give the bill third reading at the next sitting of the Senate.

Senator Barootes: Honourable senators, there is an old adage: "If at first you don't succeed, try, try, try again", and I will continue to try to expedite the affairs of this honourable chamber—

Senator Frith: According to the rules, of course.

Senator Barootes: —and, in obedience, I suggest that the bill be given third reading at the next sitting of the Senate.

Senator Frith: There is another old adage, honourable senators: "Some people learn more quickly than others."

Senator Bonnell: On a point of order, honourable senators, a "suggestion" is not enough. The honourable senator either has to make the motion or not make the motion.

Senator Barootes: I move that the bill be given third reading at the next sitting of the Senate.

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

IMMIGRATION ACT, 1976

BILL TO AMEND—REPORT OF COMMITTEE

Hon. M. Lorne Bonnell, Deputy Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, July 14, 1988

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

TWENTY-SECOND REPORT

Your Committee, to which was referred Bill S-18, An Act to amend the Immigration Act, 1976, has, in obedience to the Order of Reference of Tuesday, June 28, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

M. LORNE BONNELL
Deputy Chairman

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

Hon. Peter Bosa: Honourable senators, we had hoped to give third reading to both Bill C-93 and Bill S-18 today. That is why the President of the Canadian Ethnocultural Council, Mr. Lewis Chan, is in the gallery today.

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

ADJOURNMENT

Hon. Orville H. Phillips (Acting Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, 19th July, 1988, at two o'clock in the afternoon.

Motion agreed to.

CANADA-UNITED STATES FREE TRADE AGREEMENT

PROSPECTS OF CANADIAN ECONOMY—NOTICE OF INQUIRY

Leave having been given to revert to Notices of Inquiries:

Hon. Philippe Deane Gigantès: Honourable senators, I give notice that on Wednesday next, July 20, 1988, I will call the attention of the Senate to the prospects of the Canadian economy under the Free Trade Agreement as forecast by the Right Honourable Brian Mulroney, Prime Minister, and his cabinet.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, Senator Murray had hoped to be here, but apparently he has been unavoidably detained. It is possible that he will be here later this afternoon. However, if honourable senators have questions, I shall be happy to take them as notice and attempt to obtain answers.

SPORT

1991 CANADA WINTER GAMES, CHARLOTTETOWN, PRINCE EDWARD ISLAND—GOVERNMENT ASSISTANCE

Hon. M. Lorne Bonnell: Honourable senators, I should like to ask the Acting Leader of the Government in the Senate, my good friend and colleague from Prince Edward Island, Senator Orville Phillips, a long-time Islander, to take note of the fact and draw to the attention of the government members that the Canada Winter Games will be taking place in Charlottetown.

The Leader of the Government in the Senate, Senator Murray, some time ago said that, if the city of Charlottetown could get its act together on where to put the arena, the government would come forward with substantial grants of money to assist it.

I noticed in the *Guardian* of Charlottetown on Wednesday, July 6, 1988, a headline stating: "City says no to waterfront, arena goes to CDP", the Charlottetown Driving Park. Now that that decision has been made and the Charlottetown Driving Park is to get the trade centre and the rink, could the Acting Leader of the Government in the Senate take as notice and find out for me, for all Islanders and for all of Canada what assistance will be given to aid our small province and that small city to construct that arena for the great Canada Winter Games of 1991?

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, I thank my colleague from Prince Edward Island for his question. I was unaware that the city of Charlottetown and the province had reached an agreement on the Charlottetown Driving Park.

I will ask the officials to prepare an answer for Senator Bonnell, but in the meantime perhaps he could tell us what the province has agreed to pay. That would expedite the reply.

• (1420)

Senator Bonnell: As soon as I become the Premier of Prince Edward Island, I will do that for him.

Senator Phillips: The senator had his chance, but he lost!

Senator Argue: As soon as you become the Prime Minister, you will give him the bills.

Senator Frith: To quote Senator Barootes: "If at first you don't succeed . . ."

OFFICIAL LANGUAGES

USE OF PROVISIONS OF BILL C-72 TO PROMOTE BILINGUALISM IN WORKPLACE IN QUEBEC—POSITION OF FEDERAL GOVERNMENT

Hon. Daniel A. Lang: Honourable senators, I should like to revert to more mundane questions than those pertaining to Prince Edward Island. My question arises out of the debate here in this chamber yesterday, when Senator Wood led off on the matter of Bill C-72, the Official Languages Bill.

Today an article appeared in the Montreal *Gazette* in which it said that Gil Rémillard, in Quebec City, has said that it would be "completely unacceptable" for the federal government to use this bill—that is, Bill C-72—to promote bilingualism in the workplace in Quebec. The article says that Rémillard wrote that to Bouchard.

My question to the Acting Leader of the Government in the Senate is: Does that statement reflect the position of the federal government?

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, I would point out to Senator Lang that further discussion on Bill C-72 will take place in this chamber. It is also anticipated that there will be a committee established to study Bill C-72. I would suggest that he raise these questions either in debate or before that committee.

Senator Lang: May I ask a supplementary question arising out of the same subject matter? Again in the Montreal *Gazette* this morning, I read an article in which Marcel Masse is quoted as saying:

> The position of francophones constitutes a very important element in Canada's evolution and I can assure you the herds of dinosaurs will always be beaten by frogmen commandos.

Is that sort of inflamatory language designed to raise a swarm of WASPs to sting the frogmen to death?

Senator Phillips: The inflamatory language to which the honourable senator refers is, I think, subject to interpretation and perhaps even misinterpretation. I would point out that, on the other side, there have also been a number of statements which could be termed inflamatory.

CORRECTIONAL SERVICE OF CANADA

RESIGNATION OF COMMISSIONER AND DEPUTY COMMISSIONER—REQUEST FOR FURTHER INFORMATION

Hon. Earl A. Hastings: Honourable senators, I regret the absence of the Leader of the Government in the Senate, but I shall nevertheless place my question on record so that he may respond on Tuesday next.

My question was simply whether or not he had had an opportunity to check his information with respect to the resignation of the Commissioner of Correctional Service of Canada. Yesterday the Leader of the Government in the Senate said that, according to his information, Mr. LeBlanc had received an offer from the Government of Alberta, and that he would check that information, in that it was passing strange that the offer had come within days of a report by the Auditor General of Canada with respect to practices in the commissioner's office.

I ask again, will the Leader of the Government in the Senate check his information with respect to the resignation of Mr. LeBlanc, the commissioner, and with respect to Mr. Gordon Pinder, the Deputy Commissioner of Correctional Service of Canada. The only resignation that seems to be missing is that of the minister.

Hon. Orville H. Phillips (Acting Leader of the Government): I will draw to the attention of Senator Murray the question directed by the Honourable Senator Hastings.

ATLANTIC CANADA OPPORTUNITIES AGENCY

STATUS OF MR. GANONG—APPROVAL OF PAYMENTS TO BOARD MEMBERS—INVESTIGATION OF ALLEGED LOAN IRREGULARITIES

Hon. M. Lorne Bonnell: Honourable senators, I wonder if the Acting Leader of the Government in the Senate could also find out if it is true that Mr. Ganong, of the Atlantic Canada Opportunities Agency board, has resigned, and, if so, the reason behind his resignation. And is it a fact that the members of the ACOA board are allowed to approve large sums of money for themselves as directors of that board?

Hon. Orville H. Phillips (Acting Leader of the Government): Honourable senators, again I will direct that question to the attention of Senator Murray.

Senator Bonnell: While checking into the ACOA board, could the acting leader also find out if it is true that the ACOA board is now under police investigation because of loan irregularities?

Senator Phillips: I will direct that question to Senator Murray. I have no knowledge of the allegation made by Senator Bonnell. This is the first time I have heard the rumour.

IMMIGRATION ACT, 1976

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS REFERRED TO COMMITTEE

On the Order:

Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Marshall:

That the Senate concur in the amendments made by the House of Commons to its amendment 3 and earlier amendment 5(a) to the Bill C-84, An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof;

That the Senate do not insist on its amendments 2(a) and (b) and earlier amendments 5(b) and (c);

That the Senate agree to the further amendment made by that House to clause 8; and

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

Hon. Nathan Nurgitz: Honourable senators, if I might, with consent, refer to Order No. 1 and Order No. 2, I would move that both of these motions be referred at this time to the Standing Senate Committee on Legal and Constitutional Affairs.

[Senator Hastings.]

I have had some discussions with the Deputy Leader of the Opposition and it would appear, inasmuch as a committee report has been adopted by the Senate, that that particular committee report, approved in part by the House of Commons and rejected in part, now that it is back before the Senate, ought to be referred back to that committee so it can re-examine its own position and the comments made by the House of Commons.

I assume, if it is agreed that the motions be referred back to the committee, that the committee could sit on Tuesday next and be in a position to report within a short time thereafter.

Hon. Royce Frith (Deputy Leader of the Opposition): As honourable senators can imagine, I support what Senator Nurgitz has said. We did discuss the principle involved when a report from a committee recommending amendments is adopted by the Senate and sent to the House of Commons and then returned from the House of Commons with those amendments not accepted in full. I think, for reasons of courtesy or internal comity in the workings of the Senate, we ought to refer such messages to the committee concerned for comment. As Senator Nurgitz has said, these two messages deal with the subject of immigration and have been dealt with by the government, by the House of Commons and, to a large extent, by the Senate as companions. Because of that I think that we should deal with them together and send them both to the committee for comment. Senator Nurgitz is the deputy chairman of the committee. We have his opinion that the committee can meet early next week, and, if that committee has a report for the Senate, we can expect it then.

The Hon. the Acting Speaker: Is it agreed, honourable senators, that this motion be referred to the appropriate committee?

Hon. Senators: Agreed.

On motion of Senator Nurgitz, motion referred to the Standing Senate Committee on Legal and Constitutional Affairs.

● (1430)

IMMIGRATION ACT, 1976

BILL TO AMEND—REVISED MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS REFERRED TO COMMITTEE

On the Order:

Resuming the debate on the motion of the Honourable Senator Nurgitz, seconded by the Honourable Senator Doody:

That the Senate concur in the amendments made by the House of Commons to its amendments 1(*b*), 3, 4, 9(*a*) and 11 to the Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof;

That the Senate do not insist on its amendments 1(*a*), 2, 5, 6(*a*), 7, 8, 9(*b*) and (*c*), 10, 12(*a*) and (*b*);

That the Senate agree to the further amendments made by the House of Commons to clauses 14, 18 and 29;

That the Senate agree to the further amendment made by that House, adding a new clause after line 31 on page 56; and

That a Message be sent to the House of Commons to inform that House accordingy.—(*Honourable Senator Nurgitz*).

Hon. Nathan Nurgitz: Honourable senators, I understand that Order No. 2 is to receive the same treatment as Order No. 1, and that the motion is to be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Royce Frith (Deputy Leader of the Opposition): Yes. I thought we were dealing with them together.

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

Hon. Senators: Agreed.

On motion of Senator Nurgitz, motion referred to the Standing Senate Committee on Legal and Constitutional Affairs.

OFFICIAL LANGUAGES BILL

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Marshall, for the second reading of the Bill C-72, An Act respecting the status and use of the official languages of Canada.—(*Honourable Senator Guay, P.C.*).

Hon. Joseph-Philippe Guay: Honourable senators, I am pleased that the Government of Canada and the members of the opposition in the House of Commons have passed this bill so handsomely. I am pleased that it was presented by the Government of Canada. I was also very pleased with the comments made by the honourable senators who spoke in the debate on this bill yesterday. I should like particularly to mention the Leader of the Government in the Senate, Honourable Lowell Murray, who made an excellent speech, and also the Honourable Dalia Wood, who is our joint chairman on the Standing Joint Committee on Official Languages. There are others, of course, who spoke very well.

[*Translation*]

Bill C-72, the Official Languages Bill now before the Senate, is the result of the maturing of one of the most distinctive characteristics of Canadian society, namely its language policy. In 1969, the first Official Languages Act launched a plan for institutional bilingualism that was unique in the world. Nearly twenty years later, it is appropriate that we should look at the legislation's strengths and weaknesses, adapt it to today's society and bring it into line with the provisions of the Constitution Act, 1982. This new instrument should serve us well until Canada enters the twenty-first century.

When did the weaknesses of the first Official Languages Act become apparent? We recall the problems that arose after the reports of the Bilingual Districts Advisory Board in 1971 and 1975, when the issue was how the concept of bilingual districts should be implemented across Canada. Subsequently, the government, in its parliamentary resolution of 1973, specified the principles on the basis of which federal public servants had the right to perform their duties in the official language of their choice. There were also the judgments by the Federal Court in 1977 and 1978, in the case of the air traffic controllers in Quebec. At the time, the judges established that the Official Languages Act was declaratory, not executory, and that it had no primacy over other federal legislation. There were many complaints from three consecutive Commissioners of Official languages, Messrs. Spicer, Yalden and Fortier, as set forth in their annual reports. We could also analyze the Census data provided by Statistics Canada since the first Official Languages Act was passed and observe the gradual assimilation of language minorities in almost all Canadian provinces. We could read all the proceedings of the Joint Committee on Official Languages since 1980 and the many reports tabled by this committee in Parliament, and especially the report tabled in April 1983 which was in fact concerned with the weaknesses of the present legislation. Finally, we could name the many bills—more than thirty—that were tabled by members in the House of Commons for the purpose of improving this legislation and which died on the Order Paper. My point is that over the years, as the legislation was implemented, a number of weaknesses were revealed that went against the intent of the 1969 legislators, gaps that had to be closed to have a language policy that would be better able to "weather the storm".

What new elements have been added to make Bill C-72 deserving of the support of members of the Senate? There are many, but I will mention only a few.

First, the new Official Languages Act would include a preamble, where the legislator would specify the entire scope of the bill in ten short paragraphs. This interpretive provision might prove very useful in the event of court challenges.

Second, section 2 of the new legislation would clearly define its three objectives which are: first, to ensure the equality of the official languages; second, to support the development of official language minorities and advance the equality of status and use of the English and French languages; and third, to set out the powers, duties and functions of federal institutions in this respect.

Third, in section 3 of the act we find definitions that would correct certain ambiguities contained in the present legislation. For instance, the definition of "federal institutions" would leave no doubts that the act shall apply to the Senate and to the House of Commons, which is not the case at present.

Fourth, in section 4, simultaneous interpretation of the debates and other proceedings would be provided under the

Act instead of by an order of the House of Commons and a report of the Senate, as is currently the case.

Fifth, according to clause 10 of the bill, treaties and conventions between Canada and one or more other states would be authenticated in both official languages, and the same would apply to most classes of agreements between Canada and one or more provinces.

Sixth, Part III of the bill, which deals with the administration of justice, would remove any ambiguity and any restriction under the present law by recognizing that all Canadian citizens who must appear before a federal court anywhere in Canada have the right to use the official language of their choice without prejudice because they do not speak the other official language. Furthermore, section 16 of the new act would require federal courts other than the Supreme Court of Canada to make sure that the judge understands without an interpreter the official language in which the trial is conducted. This provision would correct a deficiency in the Charter, as interpreted in a recent judgment of the Supreme Court of Canada; according to this judgment, the right of the parties to use an official language before the courts does not imply that the presiding judge must understand that language—this in effect makes it a one-way right. Another interesting new provision in this part of the bill is that the Crown, when it is a party in a civil case, must use the official language chosen by the other parties, which would eliminate the strange situations, to say the least, that have occurred since the Charter was adopted. For example, we have heard the attorney for Canada pleading in English in a case dealing with French language rights as recognized in the Canadian Constitution.

Seventh, Part V of the bill recognizes that officials of federal institutions have the right to use French or English as a working language, subject to some rules of application. Now finally the 1973 parliamentary resolution is implemented in legislation. Section 36 defines the working environment favorable to the effective use of both official languages that the employer must provide. I cannot help but feel glad about this part of the bill, because I see that it offers the prospect of better job opportunities in the federal public service in bilingual regions in the West, especially Winnipeg, for graduates of our francophone institutions as well as students in French immersion programs.

● (1440)

[*English*]

Many do not realize that those students who are in the immersion programs in Winnipeg—I am speaking only of Winnipeg—number well over 3,000 today, closer to 4,000, and not one of those is French. Their parents are people who are particularly interested to see that their children learn the two languages properly.

[*Translation*]

I must however deplore that the Winnipeg region is not mentioned in the Treasury Board circular that lists the regions that have been designated bilingual for language of work. I hope that the government will take steps to correct that situation through the regulatory powers provided to that effect.

Eighth, I would be remiss if I did not mention Part VII of the bill, an important addition that deals with the advancement of English and French. Having just recently attended a general meeting of Manitoban francophonie, I was able to note firsthand the needs of the minority to which I belong and the enormous amount of effort expended by volunteers in an array of associations fighting the effects of assimilation and working to develop the necessary infrastructure to maintain that linguistic minority. Although the past may have been marred by a series of measures designed to deprive us of that infrastructure, we hope that the future will give rise to measures that will help that minority flourish, for without it our country's language policy would be pointless. That is why I feel it is of primordial importance that the federal government, through the Secretary of State Department, support minorities, be they anglophone or francophone, by the measures set out in clause 43 of the bill. I would add that that part of the legislation is made even more outstandingly important by the fact that the most recent constitutional accords were silent on the role of the federal government in the promotion of linguistic minorities.

Ninth, Part IX of the bill which deals with the role of the Commissioner of Official Languages, also adds a few elements to the existing act. For instance, certain protections already granted by the Access to Information Act to the Information Commissioner and to persons acting on her behalf are extended to the Commissioner of Official Languages and to persons acting on his behalf, such as the right not to be compelled to appear as a witness and protection against criminal or civil proceedings. The bill thus tends to make the prerogatives of these two ombudsmen more similar, as they play similar roles in the name of the Canadian government.

Tenth, one of the weaknesses of the existing act is that it is declaratory rather than executory. Clause 77 of Bill C-72 bridges the gap by making provision for court remedy enabling any Canadian citizen whose rights have been infringed to seek redress, as may be deemed fair and appropriate by the court.

Eleventh, finally, another weakness of the current statute would be eliminated by clause 82 which states that, with respect to Parts I to V provisions, the Official Languages Act would have primacy over any other federal legislation. This provision of the new act would give it a quasi-constitutional character and thus make it more compatible with the Canadian Charter of Rights and Freedoms.

So those are eleven reasons which make me hope that the Senate will deal quickly with Bill C-72 so that the departments responsible for implementing the legislation might get the ball rolling. We can expect the Department of Justice, the Secretary of State, and the Secretary of the Treasury Board to play a role in the implementation of this act, as will the Commissioner of Official Languages and the Public Service Commission. Indeed the bill provides that these organizations periodically report to Parliament on their activities: the Secretary of State, the President of the Treasury Board, and the Commis-

sioner of Official Languages would be expected to table an annual report in Parliament with respect to measures which have been taken pursuant to the act.

For eight years now, ever since the Joint Committee on Official Languages has been in existence, I have had the pleasure of being a member and representative of the Senate. Therefore I was able to see for myself the weaknesses of the existing legislation as it relates to the official languages program within the Public Service and to the situation of official language minorities in Canada. I was also able to see that opposition to the bill from such groups as the Alliance for the Preservation of English in Canada comes from very few people of the English-speaking majority. As a matter of fact, you may have seen the kind of publicity they resort to, a shameful and misrepresentation-ridden ad published in a number of newspapers under the heading "Wake up Canada, Racism Runs Rampant on Parliament Hill".

As a very active and very present representative on Parliament Hill for 20 years now, I can assure you that what I see every day is quite the opposite—ever wider acceptance of the concept of Canada's linguistic duality. That is why I support any legislative and regulatory measure which better defines our duality. Honourable senators, that is why I support Bill C-72.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, yesterday the Leader of the Government in the Senate gave us a clear and highly detailed explanation of the background and history of this legislation which, as we know full well, amends the Official Languages Act. It is therefore an extension of the scope of the principles set forth in that legislation.

● (1450)

[*English*]

I do not think it would be useful for me or, if I may say so, anyone else to elaborate on the careful research that he obviously put into his speech.

Having been a member of the Royal Commission on Bilingualism and Biculturalism—the Laurendeau-Dunton Commission—I feel constrained to add a few comments, not to correct what he had to say but to give my reaction to this legislation from that perspective.

My first statement must be that I support it. It is an extension of the principles that were set out in the first and third books of the report of the Royal Commission on Bilingualism and Biculturalism and, as such, deserves the support of all Canadians.

Next I will walk through the bill and raise some questions. As to the bill representing an extension of the principles set out in the first book of the report of the Royal Commission on Bilingualism and Biculturalism, senators may notice that this bill is about twice the length of the 1969 Official Languages Act. I am informed that much of the bulk of the present bill is due to incorporating administrative practices and policies that have been in place for years.

After serving as a member of the royal commission, I was retained by the first Commissioner of Official Languages, Mr. Keith Spicer, as his legal adviser. I served not as a member of the Civil Service but as an independent consultant to him for the full length of his term.

I should like to take this opportunity to say something about the administration of Mr. Spicer. I was able to observe it from the perspective of a member of the commission. I was able to observe it at close range because of my role with him as legal adviser. Of course, I was also able to observe it as a member of the public. I must congratulate him and express my thanks, from those three perspectives, for what I perceive as a brilliant and successful launching of this important, and to some extent revolutionary, legislation.

Mr. Spicer had an excellent understanding of the principles behind the bill. He understands the two languages and the two cultures very well. He is very well educated in both. He is the most fully bilingual Canadian I have ever met—certainly the most fully bilingual anglophone—partly because of his unusual understanding of the culture of French Canada and the culture of France.

And I do not wish to be stingy with my congratulations to his successor, Mr. Yalden, who very successfully added his own cachet to the régime, nor to the present commissioner, D'Iberville Fortier, who, as evidenced very clearly by this legislation, is following in that same evolutionary tradition.

When I was legal adviser to Mr. Spicer, a good deal of effort was spent in the last few years of his term attempting to obtain amendments to the legislation, some of them now being realized in the legislation before us. It was part of the commissioner's duty, as I recall it, under the present act to make recommendations for amendments, and all commissioners have done so. Certainly, we cannot let this legislation pass without saying that Mr. Fortier has presided over the most extensive of those amendments and, of course, has been responsible for many of them, as have members of the Standing Joint Committee on Official Languages and the joint chairman, Senator Wood.

Honourable senators, to go quickly through the principal features of the bill, Senator Guay mentioned that there is an extensive preamble. That is quite an extension, and there is no doubt that a preamble does help courts in the interpretation of legislation. It also helps those who are responsible for administering the legislation in its interpretation, knowing that the preamble sets out principles, guidelines and directions for the administration of the act, and knowing at the same time that, if it comes to a matter of interpretation before a court, the court can resort to the preamble.

Added to the preamble is a clear statement of the purpose of the act and its objectives in keeping with the principles that are enunciated in the preamble. This is a significant and salutary addition to the act of 1969. Part I, as Senator Guay and others have pointed out, sets out simultaneous interpretations in the debates and other proceedings of Parliament as a legislative duty. That is an advance and a clarification.

The present act contains provisions dealing with legislative and other instruments—a bit of legal esoterica. "Instruments" in that case are not referring to objects but to statutory instruments. If the definition of a statutory instrument seems arcane to laymen, I can tell you that even lawyers are not always sure when a document can properly be called a statutory instrument.

In any event, the clear principle established in this bill, which is again an important step forward, is that the existing legislation permits consecutive release or proclamation of instruments in the two languages. In the bill they must be published simultaneously.

Section 16 provides that every federal court or administrative tribunal, other than the Supreme Court of Canada, has an obligation,—that is a difference in emphasis and a significant one—whenever it is adjudicating in a proceeding involving the use of both official languages, to provide a judge or officer or panel of judges or officers that—and Senator Guay mentioned this today—understands both languages without the need for simultaneous interpretation. That is an important step forward. In some cases they represent more than a mere strengthening or clarification of what now exists—in some cases they represent important changes.

• (1500)

On the question of language of service, honourable senators will remember that the present statute is quite clear. It is not quite so clear on the question of language of use, and I will come to that in a moment. On language of service, however, the provisions in the bill have been made consistent with those of the Charter. I think most senators and most Canadians in the past 18-odd years have become familiar with the increasing implementation of the principles of the 1969 act through the use of signs reading "The Choice is Yours", for example. These signs have been placed in all our federal institutions, such as airports—

Senator Barootes: And penitentiaries.

Senator Frith: I take the honourable senator's word for that. Honourable senators will remember that the scheme of the previous legislation was the scheme of the commission, which was the recognition that federal institutions should offer bilingual service so that all citizens of Canada would feel comfortable with and reassured about the status of the two official languages throughout Canada in post offices, crown corporations, parks and other national institutions. Canadians are proud of these institutions as national symbols and want to see the official languages given equal status in them. And that was advertised through a clear message delivered by these institutions, on the recommendation and encouragement of the commissioner, that service will be granted in those two languages.

Senator Murray and others have referred to an important addition to the question of language of service. Senators will recall that in some cases it was based on significant demand and in other cases it was automatically required. Added to that has been the principle of the nature of the office as a reason for providing service in both official languages. It is to include such factors as public health, safety and security, the location of the office or its "national or international mandate". A more precise interpretation of this and other terms is left to the Governor in Council for regulations to be published after due consultation with the commissioner and the communities concerned. These and all other regulations promulgated under the bill are to be the subject of pre-publication and parliamentary review.

This, in my view, raises an important flag or reservation. I am opposed to the extension of government by regulation. Most undesirable legislative practices and most practices that change the principles of parliamentary democracy and freedom arrive in a "Trojan horse" of popularity. Usually, when we find that some parliamentary tradition or privilege has been chipped away or that some freedom or important principle of liberty has been compromised, it is presented as a necessity for the greater good. If one raises doubts as to the need for the compromise of these principles in order to advance the cause that is being brought forward, one is seen as opposing not only a popular but a desirable concept. Because it is my hope that we support Senator Wood's motion for a special committee made up of senators with experience in this field to study this legislation, it is also my hope that that committee will have an opportunity to ask the commissioner's office and the minister why it is necessary to have these terms defined more precisely by Governor in Council regulations. I expect that I and other senators will be reassured in this regard. My support for the principle of the bill is so strong and so rooted in conviction that I have every expectation that my reservations can be allayed. But I bring this point to the attention of honourable senators because I do want reassurance on that score. And when I say "on that score", I mean not only on the need to use parliamentary regulations or Order in Council regulations—that is, regulations made by the executive—but details on whether the parliamentary review will be an effective review of government by Order in Council.

The bill also proposes that federal bodies with regulatory powers affecting public health, safety and security use those powers whenever it is reasonable to do so to help promote linguistic equality in the bodies they regulate. Since we are dealing with federal bodies and since the same principle applies—that is, the need for Canadians to feel that in all federal, national, Canadian and pan-Canadian institutions there is observance of respect for the two languages—I support and encourage the extension of that principle to federal regulatory bodies.

In general, I salute this legislation. I think it will further stir Canadians to see the presence of the other language and, in that presence, to recognize it as very Canadian. What is developing is one of the most distinctive characteristics of Canadian culture—the widespread use of and respect for our two official languages.

Honourable senators, I should like to make a few comments on language of work. In the English version of the present act, all of the jurisdiction for implementing recommendations and policies on language of work hangs on one three-letter word:

use. In the present act, the languages are to have "equal status as to their use."

• (1510)

When Mr. Spicer and I first discussed the act and its administration, we read together the sections about language of service and discussed the question of language of use—that is, the right of a federal public servant to use the language of his or her choice in his or her work, and not just to serve the public in the client's language.

At that time, at the beginning of his mandate, Mr. Spicer was concentrating on language of service and had some serious doubts about jursidiction for language of use. In the course of our working together for that seven-year period we built the entire language-of-use régime on that one word: use.

This act gives that one little word a lot of help, because, unlike the 1969 act, it is explicit here that the principle of public servants being able to work in their own language is a part of the legislative scheme and the administration of the régime.

I now come to flag number two—this is for the committee—and that is Part VI, which deals with equitable participation.

The principle that both language groups be fairly represented and enjoy full participation in the work of the government was also not really made explicit until the 1973 parliamentary resolution, and was not given legislative effect. It has been embodied in this bill in terms of equal access to appointment and advancement for both groups, and an appropriate reflection of their presence in Canada.

The B & B Commission was firm about the principle of equal access, because its mandate and its interpretation of that mandate leaned heavily on the concept of equal opportunity.

The question of reflection of presence, however, raises a question that I should also like to explore with the commissioner, the minister and others. Can this be misunderstood as a principle of quotas? The B & B Commission rejected the concept of quotas based on population—that is, taking Statistics Canada reports or census reports, looking at the presence in the country of the two language groups and then applying a quota for representation in the public service.

I am reassured—and I am sure that we all will be—by the fact that the expression is an appropriate reflection of the presence of the groups rather than the rigid application of quotas. Here again the rules of full participation are to be spelled out in Governor-in-Council regulations. For the same reasons that applied earlier in my intervention I will want to ask about that.

The bill lays out in detail, in Parts VII and VIII, the roles of the key governmental agencies responsible for its implementation, and Treasury Board is identified as overall manager and promoter of those principles.

Treasury Board has been playing a large role in the administration of this régime, but in this bill the programs which affect the federal administration, including crown corporations and wholly-owned subsidiaries, will be explicitly subject to the management of Treasury Board. The board is required to publish directives, develop regulations, inform the public and evaluate outcomes and report annually to Parliament. That is a good principle. The bill also assigns to the Secretary of State the duty to pursue all those official languages programs that it now manages, but it must do so as a matter of policy. Again, a salutary provision.

The commissioner remains as language ombudsman, parliamentary monitor of government performance and promoter of language equality, although the bill expands and reinforces those roles somewhat.

The commissioner is given jurisdiction to monitor all official languages legislation, in addition to the bill, and will also be responsible for overseeing the government's promotional activities in the area. He is also required to review all Governor-in-Council regulations promulagated under the act, as I mentioned earlier. He is part of the consulting and review process on government by regulations.

Let's stop for a moment to understand a substantial extension of the commissioner's role. Up to now he has been an ombudsman. The important distinction between the role of an ombudsman and his additional roles here is that traditionally an ombudsman solely makes recommendations. An ombudsman is someone to whom complaints are made about the executive branch, and the ombudsman investigates them and makes recommendations. That has important consequences in fact, in politics and in law.

In fact, it means that he is leaving to someone else the enforcement of his recommendations. He does not have the power to enforce them himself. His powers come from the publicity of his recommendations and from the pressure he has on others who must enforce them.

In politics, small "p", that puts his status somewhere between the executive, public policy and the public.

In law, it makes a difference because traditionally any decision made by a judicial or quasi-judicial body is not subject to judicial review if it is only a recommendation and not an actual decision. What are reviewable by the courts are decisions, not recommendations.

For what it is worth, the leading case, as I remember it, is *Guay v. Lafleur*. Guay is spelled the same as Senator Guay and Lafleur is spelled in the same way as that of an equally skillful Canadian, but in another arena.

Senator Gigantès: Skating on ice rather than on words!

Senator Frith: Yes. Forgive me for that parenthetical bit of avocasserie.

The difference is significant. The role of the present commissioner, under the 1969 act, is that of an ombudsman, to make recommendations.

Now the commissioner's duty, under Part X, will include his having standing to appear as a party before the Federal Court. Under Part X of this bill, he is given that right to take federal departments to the Federal Court, with the consent of the complainant—and there is usually a complainant wherever an ombudsman is involved, although ombudsmen can launch

investigations on their own—or he can join in a complainant-initiated application to the court where complaints have not been satisfactorily resolved. He also retains his capacity to seek leave to intervene in any other adjudicative proceeding involving the status of English and French.

● (1520)

Part X is said to be a response to criticism that the 1969 act lacked an effective executory character. This bill provides a procedure whereby the complainant—or the commissioner on his behalf—can apply to the trial division of the Federal Court for an "appropriate and just" remedy. And it permits the court, under clause 79, to admit as evidence information relating to any similar complaint involving the same federal institution.

Stopping there for another legal digression, generally speaking in law, evidence of similar acts is not admissible, although there are exceptions. The principle is that one ought not to be convicted of an offence because he had previously done something similar.

So a department will now not be merely the subject of a recommendation but could be the subject of proceedings in the Federal Court and have brought against it evidence that it has committed a similar act previously. I am hoping that my analogy is inappropriate and that the evidence given before the committee will convince me that it is.

The new jurisdiction of the Federal Court is also something that is in addition to the legal remedies that complainants can seek under the Charter or under the common law, as was done in the *Aviation* case, and, as they say in England, I was "in" that case representing the commissioner before the Federal Court, but, however, in a context different from the context that will be possible in the additional powers under Part X.

Honourable senators, there are a number of other salutary provisions in this bill and I flag the following for our consideration. Clause 82 gives Parts I to V of the bill primacy over all other federal law, except the Canadian Human Rights Act. There are some very useful safeguards with regard to staffing. Clause 91, for example, requires that linguistic requirements for a particular staffing action be objectively determined in order to protect against over-zealous or arbitrary application of the bill to personnel matters.

Clauses 85 to 87, as I have mentioned previously, lay out the pre-publication procedure for regulations. I would like to hear more about that. There is in clause 87 a negative resolution scheme regarding new language-of-work regions.

The amendments made to the bill in Part XIV.1 of the Criminal Code regarding the language of trials is also to be supported, in my view. The effect of the changes is to ensure that an accused receives justice in the official language of his choice. Also, in the absence of provincial agreement in those provinces that have not already assented to proclamation of Part XIV.1, these provisions will come into effect no later than January 1, 1990.

Yukon and the Northwest Territories are exempted from the application of the bill, but their territorial languages ordinances, which provide in each case for satisfactory institutional bilingualism, have been entrenched in the bill in that the territorial legislatures cannot diminish any protections in them without the consent of Parliament. Any honourable senator who is interested in the history of the language provisions in Yukon and the Northwest Territories—or, for that matter, the background of language law and legal rights in all of the provinces of Canada—would find, I think, very edifying a study prepared for the commission by Claude-Armand Sheppard called: "Law of Languages in Canada". It is a most scholarly and readable review of the history of language law in Canada.

Therefore, honourable senators, you can appreciate that this bill constitutes a major overhaul of the 1969 act. I believe that it builds creatively on the spirit of the current law. As a member of the commission that inspired the original legislation, I welcome this bill and hope that it will receive quick passage in the Senate after careful study. I hope that it will go to the committee today or, if not, no later than next week. We will, of course, need to set up the committee and, if we wish to send the bill today, we must give Senator Wood an opportunity to bring forward her motion so that a committee will exist to which we can refer it.

I congratulate the government and the House of Commons in having wrestled with this bill—and wrestle they did—and finally managing to send it to the Senate. I hope—and I can say I am sure that my hope will be fulfilled—that these few nits that I have picked with regard to some of the provisions of the bill will be satisfactorily explained in the committee. I do not think that they are properly the subject of any further debate here, although Senator Murray may want to comment on them. However, I am telling him and my colleagues here in the Senate that I would be personally quite satisfied to have the minister and the commissioner appear before the committee so that we can explore the questions I have raised there, rather than here in second reading debate on the principle of the bill.

Apart from that, I say to this bill *geh gesind*, we are glad to have it and hope that it will receive Royal Assent very soon.

Hon. Daniel A. Lang: I wonder if I might ask a question of my friend because of the breadth and depth of his knowledge in this area. My question is really most elementary: Does he feel that this bill, in any sense, will diminish the opportunities for unilingual anglophones to achieve employment in the public service or in crown corporations or in corporations that deal on contract with the federal government?

● (1530)

Senator Frith: I do not think that this bill will diminish the opportunities of any unilingual Canadian. It will certainly encourage bilingualism for those whose native tongue is French, just as it will encourage bilingualism for those whose native tongue is English.

In spite of the odd caveat that I have raised, there is one thing that it does not do; it does not change the principle of institutional bilingualism, and that was the most important

principle established by the B & B Commission—that is, the distinction between institutional bilingualism and individual bilingualism.

This bill, by increasing institutional bilingualism, will increase the requirement for individual bilinguals, but it will not make individual or personal bilingualism any more necessary than it was to serve the previous legislation. It also established this principle of institutional bilingualism. Here, too, the emphasis is on extension of language services. It does extend the language-of-use provisions, but mostly it clarifies them rather than extends them.

Hon. Charlie Watt: Honourable senators, I was not going to rise on this subject, but Senator Lang has raised a very interesting issue as to what happens to unilingual people.

What would happen to a person whose mother tongue is Inuktituut, but who has also managed to succeed in terms of being able to speak fluently in English but not in French? What happens in that case? Would that person be jeopardized by this bill?

Senator Frith: No more or no less than any other unilingual, including a unilingual francophone, a unilingual anglophone or someone who speaks one of the native languages and only speaks either English or French.

The legislation, in my opinion, does exactly what the previous legislation did; it does not subtract; it adds. It adds opportunities for bilingual people, it adds opportunities for some unilingual French or unilingual English people, but it does not subtract anything from anyone, and I do not think it would subtract anything in the case that you have mentioned.

Senator Watt: I have a supplementary question. Since the aboriginal person I have described is already bilingual, I do not think there is any provision in the bill recognizing that fact—that is, that a person who speaks Inuktituut and is also fluent in English or French is considered bilingual. Is that person considered bilingual or not bilingual? How does the bill deal with that?

Some Hon. Senators: Hear, hear!

Senator Frith: Of course that person is bilingual if that person speaks two languages. So is someone who speaks Portuguese and English; so is someone who speaks Romanian and Hungarian. Those people are bilingual. But this bill does not mean to deal with bilinguals as a general principle; it deals with the two official languages of Canada, English and French. It does not make a person more or less bilingual if that person speaks English and Inuktituut.

What has always been part of the problem, and is still part of the problem, is that we now tend to use the word "bilingual" in Canada to designate a person who speaks English and French, and that is understandable. When we are talking about this subject we are, in fact, talking about the English and French languages, but the word "bilingual" is a word that is applied to someone who speaks any two languages.

What this bill means to deal with is not individual people. It sets up a régime of two official languages to which people who speak English or French respond.

By setting up that régime it adds rights. It adds, for example, to a French Canadian, who speaks only French, rights that that person did not have and gives reassurances that that person did not have under a unilingual administration, which was primarily English. The problem in reaction to the legislation has always been that it was trying to take something away from someone who spoke only French or someone who spoke only English, whether or not they spoke other languages. It does not do that and it was never intended to do that. It is simply an administration of fairness to the two official languages of Canada.

Of course, once it sets up a régime of that kind, it does mean that someone who is bilingual has more opportunities, but that person does not have any less opportunity than before the régime was set up.

There is no way in which this legislation subtracts anything, in my opinion. It adds; it adds service and opportunity to individuals and obeys the principle of linguistic justice.

Hon. Len Marchand: Honourable senators, if I may, I should like to add a few words. I do not have any questions but simply a few observations to make. I was not going to speak on this legislation, but the question asked by Senator Watt whetted my appetite; so I think a few words are in order.

I am, of course, in favour of the bill. I think it is a great step forward. I was also in favour of the original Official Languages Bill introduced by the Right Honourable Pierre Elliott Trudeau back in 1969. I took part in that debate in the other place and was proud to have been part of the government that brought in that particular legislation. I think this particular bill goes just a little further and defines things a little more.

As a Canadian from the west at the time the original Official Languages Bill was introduced, I can say it was particularly important that that bill was brought in at that time, because in western Canada it was mostly the English language that was spoken—and it still is—and there were very often many misunderstandings about where we were going in terms of language.

I was appalled recently at what happened in Saskatchewan and also appalled at what happened in the province of Alberta. So I think it behooves us as Canadians to make sure that we go forward with the kind of unanimity we have shown in Bill C-72.

Going back to Senator Watt's question, I was glad to see that people who took part in the debate on this particular bill did not talk in terms of "founding races" or "founding peoples" of this country in connection with the official languages, because I get a little angry when I hear people talk about the "founding nations".

Our people were here first, about 40,000 years ago, as were Senator Watt's people and Senator Adams' people. We were not lost. When people say "the founding nations", that gets us just a little angry, because we were not lost. We were never lost.

In any event, I want to bootleg just a little on to this and give a little background. Senator Adams and Senator Watt

have Inuktituut as their first language. In the case of Senator Adams, you have all seen here that sometimes he has difficulty communicating in English because his first language is Inuktituut, and we have not really provided in this institution accommodation for him. Perhaps Senator Watt has had a little more exposure to the English language so that, in his case, it is not quite so urgent. He can communicate a little better in English.

● (1540)

When we were on the task force studying the Meech Lake Accord, we went to the Northwest Territories and the Yukon, and I was very impressed with the way the people in those territories were sensitized to the language needs of the aboriginal peoples. In Yellowknife we had translation for Slavey, we had translation for Dogrib and we had translation for Inuktituut that was absolutely excellent. This was a great step forward by those people in terms of their sensitivity towards the language needs of the aboriginal peoples. When we went to Iqaluit, the translation was again present in Inuktituut. Many people came forward who could not speak English because their language was Inuktituut, and the contribution that they made because there was translation was absolutely great. They understood in their own language and they could communicate in their own language what the Constitution was all about. They were able to tell the committee, in a real fashion, in their own words, translated later on into English, what they were thinking in their own communities. The fact that they were able to communicate in their own language was a great step forward.

Perhaps, if I had been better prepared and had done more homework in connection with this bill and this issue, I might have been able to bring forward more concrete proposals. In the future I will do that. Perhaps I should say we will do that. Senator Watt and Senator Adams and I have a particular obligation to comment or bring forward some proposals. We may not be able to do it in an official sense, as there are some 56 Indian dialects in the country.

My first language was Okanagan. I did not speak English until I was three or four years old. I recall an incident when I was appointed to the cabinet back in 1976. Wayne Cheveldayoff of the Toronto *Globe and Mail* asked me if I was bilingual, and I said, "Sure, I am bilingual. I speak Okanagan and English."

I just wanted to flag that in terms of the aboriginal peoples. We can and should do a better job, especially regarding their access to the federal institutions.

Hon. Senators: Hear, hear!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators—

The Hon. the Acting Speaker: Honourable senators, if Senator Murray speaks now his speech will have the effect of closing the debate.

[Senator Marchand.]

[*Translation*]

Senator Murray: Honourable senators, first of all, I wish to thank and congratulate all honourable senators who took part in this debate, not only for their excellent contribution but especially for their support for the important principle of bilingualism and Bill C-72.

I apologize to my friend, the Honourable Senator Guay, with whom I have had the pleasure of serving on the Joint Committee on Official Languages for several years, for my absence during his speech this afternoon.

I was called out of town for the morning and I therefore had to postpone my return to the Senate until later. Nevertheless, I intend to read his speech in the *Debates* of this house with interest.

Senator Guay: Thank you, Senator Murray.

[*English*]

Senator Murray: I apologize also to the Deputy Leader of the Opposition for having missed part of his speech this afternoon. I look forward at a later date to reading the part I missed, because I appreciate the incomparable credentials that he brings to a discussion of this subject. He has credentials, having served as he did on the Laurendeau-Dunton Commission and having served, if I am not mistaken, also as a legal adviser and counsel to the Commissioner of Official Languages during a previous incarnation, before his appointment to this place.

I am happy to accept and accommodate the statement of the Deputy Leader of the Opposition that most of the questions he raised during the course of his speech this afternoon could be more profitably dealt with when we have the Minister of Justice, the sponsor of this bill, before the committee. That is true for a number of the detailed matters that have been raised in the course of the debate.

I must say that I am very happy that our colleagues, Senator Watt and Senator Marchand, took part, on the spur of the moment, in this debate. Sometimes those spur-of-the-moment speeches are the best ones. It was most appropriate that they took advantage of an occasion like this to express their concerns and their preoccupations and their perspectives as members of the founding peoples in Canada—

Senator Frith: Hear, hear!

Senator Murray: —on language policy and on linguistic justice in this country and on the access we want our citizens to have to the federal government services to which they are entitled.

Earlier this day our friend Senator Lang raised a question during Question Period, and I have obtained the unedited transcript of the Question Period. He alluded to an article in the Montreal *Gazette* in which it was stated that the Honourable Gil Rémillard had said that it would be "completely unacceptable" for the federal government to use this bill—that is, Bill C-72—to promote bilingualism in the workplace in Quebec.

Let me take just a moment on that matter. The workplace that this bill refers to is the federal government's workplace. It refers to the offices of the departments of the federal government. This bill attempts to state the right of employees of the federal government to speak the official language of their choice in the "workplace" of the federal government, under certain conditions.

The question that arises from Senator Lang's question is whether some of those workplaces are located in the province of Quebec. The answer is that, yes, they are. The answer is that they have been since, I believe, 1977. In other words, there are places in the province of Quebec, obviously, where the government offices function, in terms both of their service to the public and the language of work, in both of our official languages. That has been the case since, I believe, 1977, and that policy is legislated in Bill C-72. If the honourable senator wishes to pursue the matter, I shall do my best.

● (1550)

Senator Lang: I would rather not pursue it, but what was Mr. Rémillard saying, then?

Senator Murray: First, I do not think my friend should ask me; he should ask Mr. Rémillard or perhaps the people who wrote the article in the Montreal *Gazette*. The point I want to make is that this bill deals with the federal government workplace. This bill provides that in certain places in Canada, which are to be defined by regulation, an employee of the federal government shall have the right to work in the official language of his choice, to communicate with his superiors and so forth; it is all there. Among those places in Canada are a number of places in the province of Quebec, and this has been the case, according to the policy, since, I believe, 1977. It will continue to be the case under the terms of this bill, because the districts that were established by the policy in 1977 have been given legislative sanction by this bill.

Honourable senators, our colleague Senator Wood spoke yesterday. She, too, raised a number of matters that I think Mr. Hnatyshyn will want to deal with when he appears before the committee. I have one or two brief observations to make on her speech. First, I think it was a mite unfair of her to reproach the present government for having taken three years to come up with this bill. She will know that the Official Languages Act was passed in 1969 and that between 1969 and 1988 there have been reports by successive Commissioners of Official Languages and by the Joint Committee on Official Languages recommending changes. Quite a number of the reports by the joint committee were made while Senator Wood and I served on it. All of them suggested that changes ought to be made to the Official Languages Act. However, our predecessors did not bring any amendments to the act before Parliament and, indeed, in their very last Speech from the Throne in 1983, there was not even any mention of a plan to amend the Official Languages Act. This prompted me in my then capacity as co-chairman of the joint committee to write to Prime Minister Trudeau as to the government's position on our recommendations.

He replied in a very full letter, but there was no commitment on the part of the government to overhaul the Official Languages Act. We have done that. It has taken us three years, but I do not apologize for the delay. I think the government has done a good job of it. I think the consultations across the country with minority language groups, with Commissioners of Official Languages and, heavens knows, with Parliament and parliamentarians were thorough and effective. The end result is a very happy one and will prove to be a vast improvement on the old act. I say that because the new act extends bilingualism, legislates on questions like the language of work, brings into one act the responsibility of the federal government to promote bilingualism in the country and to assist the minority language communities across the country.

This bill is an improvement on the old act because it is a much more flexible instrument. We saw that the previous government and, indeed, this government could not move to proclaim bilingual districts. The concept was just too rigid—the idea that you could draw a circle on a map and say, "Ten per cent of the people who live here speak the minority language; therefore, within these boundaries there shall be full bilingual services." It was entirely too rigid for many reasons, some of which I went into yesterday. It seems to me that the idea of declaring these districts by regulation and allowing for common sense and flexibility, and requiring consultation, oversight and parliamentary review of the whole process will prove to be a much more effective way of administering and implementing bilingualism in this country.

Senator Wood noted in her speech that the preamble of this bill assigns responsibility to the federal government for the advancement of bilingualism whereas the Meech Lake Accord imposes the duty on all governments to preserve the linguistic duality of the country. Indeed, this is the very point we were making at Meech Lake. The Meech Lake commitment was never considered, certainly not by the federal government and not by a good many of the provinces, to be a maximum. Rather, it was considered a floor, a minimum on which we could build. We do promote linguistic duality in this country. I think it is fair to say that the Government of New Brunswick and the Government of Ontario do the same. So the Meech Lake commitment, which was the most on which we could get unanimous agreement to preserve linguistic duality, was never considered as a maximum standard by any of the interested participants.

Senator Wood also raised the question of bilingualism in crown corporations and their affiliates. She knows that some time ago the joint committee made recommendations about requiring all subsidiaries of crown corporations to accept the obligations of the Official Languages Act. That kind of blanket treatment of crown corporation subsidiaries would be very difficult—I think impractical—to apply. I can do no better than to quote to her the reply the Right Honourable Pierre Trudeau made to me when I wrote to him about the matter five years ago. He said:

> The Committee's ninth recommendation and its sixth report deal with Crown corporations in both general and

> specific terms. As the Committee will be aware, the Official Languages Act applies to Crown corporations as defined in Part VIII of the Financial Administration Act. To bring all subsidiary corporations and mixed enterprises within this ambit presents significant legal problems and it should be thoroughly examined before any steps are taken. Some such entities are incorporated and operate exclusively outside Canada or under the laws of a single province. Others have an extremely localised scope and deal with an essentially unilingual clientele. The government nonetheless agrees that, generally speaking, wholly-owned entities should respect official languages policies. The government is developing criteria to govern the application of official languages policies to various categories of Crown corporations and their subsidiaries.

I therefore invite the honourable senator to question Mr. Hnatyshyn on this matter when he comes before the committee. Blanket application of the act to all subsidiaries of crown corporations would be, as Prime Minister Trudeau suggested at the time, quite a difficult and impractical step to take.

● (1600)

The honourable senator also referred to the privatization of crown corporations, and she notes that this bill does not refer to that matter. I have a copy of Bill C-129, which I believe is still before the House of Commons, which provides, in effect, for the privatization of Air Canada, and I had sent for it to confirm, as I trust I shall, that under clause 10 of the bill that would privatize Air Canada, under "general", the Official Languages Act applies to the corporation. I think that it makes far more sense to deal with these matters on a case-by-case basis than to try to cover them in the Official Languages Act of the country.

Honourable senators, before I sit down, I do want to deal briefly, but I hope thoroughly, with the speech given yesterday afternoon by our colleague Senator Everett—and I am sorry that he is not here this afternoon. I appreciate the speech that he made. I appreciate his generous view of bilingualism in Canada and his support for this bill. Senator Everett did express some views, however, with which I must take issue, and he made some statements of fact which I know are incorrect.

First of all, in dealing with Manitoba, the honourable senator said that Parliament some several years ago had adopted a resolution calling upon Manitoba to become officially bilingual. I think that it is important to note that the resolutions—and there were two of them—passed in 1983 by Parliament with regard to Manitoba did not "call upon Manitoba to become bilingual." They called upon Manitoba to respect the Constitution of Canada. They called on Manitoba to respect the decision of the Supreme Court of Canada on that matter. When it appeared that there was some undue delay in the process, they called on the Government of Manitoba of the day to persist in its efforts.

The resolutions were proposed on October 6, 1983, by Prime Minister Trudeau, and again on February 24, 1984, by Mr. Axworthy, the then Minister of Transport. Indeed, Mr. Trudeau in the first paragraph of his speech said:

> By the resolution which is before the House, we, in this chamber, are called upon to do two things: first, to ensure that the Constitution will be obeyed; and, second, to right a wrong.

So Parliament's resolution of that day was addressed to a province which had been found by the Supreme Court to have constitutional obligations with regard to bilingualism.

The Government of Canada of the day had been prepared to support a constitutional amendment that would have relieved Manitoba of some of its constitutional obligations in return for the provision of certain services to the francophone minority. Honourable senators will recall that an agreement to that effect had been worked out between the Pawley government and the franco-Manitobans; an agreement that would have relieved Manitoba of some of those obligations—translating all of the statutes and so forth—in return for providing certain services. That was the great controversy of the day. But the Government of Canada and, I think it is fair to say, all parties in Parliament were prepared to go along at the time, but, unfortunately, this reasonable approach did not lead to a constitutional amendment, and the matter played out as we know it did.

Senator Everett referred to appeals to the Supreme Court of Canada supported by the federal government respecting statutes in both official languages. He alleges, for example, that the federal government had not provided funds to the anglophone minority in Quebec to challenge Bill 101. I have to tell the house that this again is at variance with the facts. The Supreme Court will eventually render a decision on the signage provisions of Bill 101, and appeals in this matter have been supported financially by the Government of Canada under the Court Challenges Program. Indeed, it is widely believed that the creation of the Court Challenges Program in March 1978 was seen as the government's response to Bill 101, which had been adopted in the late summer of 1977.

Mr. Trudeau was not prepared to entertain the suggestion that the power of disallowance, for example, should be used by the federal government in a matter of this kind. His response was that people should challenge the law in the courts. When they did challenge the law in the courts, his government, and I think the succeeding government, assisted financially. The government provided funding under the Court Challenges Program for *Procureur Général du Québec v. Chaussure Brown*. The funding began prior to September 1984 and it was complete at the two lower levels of the process and partial at the Supreme Court level.

I should remind the house, and I think this is important in view of Senator Everett's statements, that Canada filed a separate factum, both in the *Procureur Général du Québec v. Chaussure Brown* and in the case of *Victor Herbert Devine et al v. Procureur Général du Québec*. Canada filed a separate factum in both cases, arguing against Quebec's signage law on the basis of the Charter's freedom-of-expression provisions and

the improper use of the "notwithstanding" clause by the Quebec National Assembly.

Our colleague Senator Gigantès put it very well yesterday afternoon. The francophone minorities in most of Canada would give anything to have the constitutional rights, the legislated rights and the administered rights that the English minority enjoy and have enjoyed for many years in the province of Quebec. It is true, as Senator Gigantès has said, that there is really no valid comparison that can be drawn between the rights that are enjoyed by the Anglophones, and have been enjoyed by the Anglophones, in Quebec and those that francophone minorities in much of Canada have struggled and are still struggling to obtain: rights which, as we know, in some cases were there when they entered Confederation but were taken away from them by the English majority in later years.

We understand the desire of the Government of Quebec, of course, to ensure that the French language remains a vital force in Canada, but it must be noted that only Quebec provides public support for three universities that operate in the minority language: McGill, as Senator Gigantès has noted, Concordia and Bishop's. There are only two other provinces that support universities that operate solely in the minority language: New Brunswick, which supports l'Université de Moncton; and Nova Scotia, which supports l'Université St. Anne at Pointe l'Eglise.

• (1610)

This government—and, indeed, our predecessors—have never supported the restriction of minority language rights in any province. The government encourages the provinces to be as generous as possible. In my opening speech on Bill C-72 I commended Ontario and Quebec—Ontario for Bill 8 on the provision of services in French, and Quebec on its recent law on the provision of social and health services in English.

When asked what he thought a particular premier should do about minority rights, the Prime Minister stated—and he applied the statement to every other premier—that linguistic minorities should be treated in the way that we would want to be treated if we were in that position. He has been a champion of linguistic justice in all his public career and even before that. I do not think anyone can put in doubt—Senator Everett did not—the underlying commitment of this government to linguistic justice across this country. Senator Everett is mistaken in the inference that he draws that there is some kind of double standard on the part of the Government of Canada. Minority rights are indivisible.

I hope, therefore, that these comments will help clarify the situation regarding the current status of English and French, both in western Canada and Quebec. I assure Senator Everett that the government is even-handed in its support of anglophone and francophone minorities.

I do appreciate his support for Canada's languages, and I would encourage him and others to take an active part in dispelling myths and support a more generous approach by all governments in Canada.

Motion agreed to and bill read second time.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, before a motion is put relating to third reading, may I suggest that we proceed to Motions? There is a motion in the name of Senator Wood, for which she gave notice on Tuesday. That motion provides for the setting up of a special committee to study Bill C-72. I infer wide, if not unanimous, support for sending the bill to such a committee. Since I expect that Senator Murray will move that it be referred to a committee before third reading, we would be well advised to set that committee up in case, as I suspect, it is the committee he would like to send it to.

Senator Murray: That would be quite acceptable to us.

OFFICIAL LANGUAGES BILL C-72

SPECIAL SENATE COMMITTEE APPOINTED

Leave having been given to proceed to Motions.

Hon. Dalia Wood, pursuant to notice of Tuesday, July 12, 1988, moved:

> That a special committee of the Senate be appointed to consider, after second reading, the Bill C-72, An Act respecting the status and use of the official languages of Canada;
>
> That, notwithstanding Rule 66(1)(*b*), the special committee be composed of the Honourable Senators Bonnell, Cools, Cottreau, David, De Bané, Guay, Ottenheimer, Robichaud, Tremblay and Wood;
>
> That the quorum of the special committee be four members; and
>
> That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee.

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

Hon. Senators: Agreed.

Motion agreed to.

OFFICIAL LANGUAGES BILL

REFERRED TO COMMITTEE

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I move that Bill C-72 be referred to the special committee just now set up for that purpose.

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

Hon. Senators: Agreed.

On motion of Senator Murray, bill referred to Special Committee of the Senate on Bill C-72.

MACEDONIA

On the order:

Resuming the debate on the inquiry of the Honourable Senator Gigantès calling the attention of the Senate to the question of Macedonia.

Hon. Philippe Deane Gigantès: Honourable senators, I am grateful to have this opportunity to tell you about an issue that was brought up repeatedly when I was in Greece with a parliamentary delegation. It is an issue that is delicate and threatens the excellent relations between the Government of Canada and the Government of Greece. Unfortunately, it also affects the view that Greece takes of NATO. The view that the Greek government takes of NATO is one that should concern Canada.

The Greek government, I was told when I was there, does not believe it would be defended by NATO military units either in the event of a Turkish attack on Greek islands or, in the worst eventuality, of Yugoslavia and Bulgaria driving down to the Aegean Sea during a Turkish attack on Greek islands.

Athens expects that in such circumstances NATO members would not offer military help to Greece but would merely express disapproval of the attacks and, at most, interrupt diplomatic and commercial relations with the aggressors.

The Greeks do not feel that their fears are paranoid, nor do they dismiss as so much rhetoric statements by Turkish parliamentarians laying claim to Greek islands. According to the ministers with whom I met, a Turkish government might well attack Greek islands, as it invaded Cyprus in 1974, to protect itself politically from internal popular discontent.

Whereas, in 1964, U.S. President Lyndon B. Johnson told Ankara in writing that he would use the Sixth Fleet to prevent a Turkish attack on Cyprus, the Americans made no such threat in 1974 and allowed a *de facto* partition of the island. Greeks of all parties see this as "proof" that the U.S. favours Turkey over Greece.

The British, who are guarantors by treaty of an independent Cyprus, made no real effort to stop the Turkish invasion in 1974 or to argue convincingly that, since the Greek Cypriots, who favoured union with Greece, had been neutralized and discredited by the Turkish invasion, Ankara had made its point and should have withdrawn its troops.

Given such American and British indifference to Greek feelings, it is not inconceivable, the Greeks think, that some Turkish government might attack the Aegean Islands to distract Turkish public opinion from domestic troubles.

To justify their fears of Yugoslav and Bulgarian incursions into northern Greece, in the event of a Turkish attack in the Aegean Sea, the Greeks cite Yugoslav claims to Macedonia and Bulgarian claims to Thrace. I believe you will be shown some maps that illustrate this, maps printed in a Canadian publication. Greek ministers are critical of Canada for not seeing in such Yugoslav and Bulgarian claims a possible build-up of a case for an invasion: "The Turks and the Greeks are at war. We are intervening to protect our brother Macedonians," the Yugoslavs would say, or, "our brother Thracians," the Bulgarians would say. The Athens government maintains that there are no such people in Greece as "Macedonian brothers" of Yugoslavia or "Thracian brothers" of Bulgaria.

• (1620)

Support by Canadian officials, elected or otherwise, for non-Greek Macedonians laying some sort of territorial claim to Greek Macedonia is considered by this Greek government, as by all its predecessors, to be a thoughtless encouragement of a potential conflict in the Balkans.

Honourable senators have in their hands a photostat of a map from a publication financed by the Canadian government, a publication that lays a so-called Macedonian claim to an important part of Greece.

Such Canadian support for "people who wish Greece harm", I was told, could generate a feeling that Canadians in authority do not care to learn the facts about Greece and that these Canadians are unduly influenced by a British hostility to Greece that lingers from the days of the Greek-Cypriot independence movement; and by U.S. dislike for Mr. Andreas Papandreou, a former U.S. citizen who is much more assertive and prickly in his relations with Washington than any Greek leader heretofore. Incidentally, these Greek complaints are not particularly addressed to this particular government; similar complaints were voiced before against the government of Mr. Trudeau and earlier against previous governments. This is not a partisan issue I am bringing forth.

I replied that this Canadian government, like its predecessors, had never said or done anything that could remotely be interpreted as encouraging any claims against the territorial integrity of Greece and that, moreover, Canadian governments have not supported secession movements based on linguistic or ethnic distinctions anywhere, anytime. That happens to be fact: No Canadian government has given such support.

The answer of my interlocutors in Greece was that, in this field, the Canadians have occasionally sinned out of ignorance, which may be an excuse, but it is no less damaging for Greece.

With the increasing likelihood that the U.S. might withdraw its forces from Europe, regardless of what its NATO allies think, local wars that do not involve great power intervention become more likely. Thus, the Greeks fear that the danger of attacks by Communist countries on Greece becomes more likely.

Even if the American bases remain in Greece, the Greek ministers who spoke to me did not believe that the U.S. would come to the aid of Greece militarily in the event of Yugoslav or Bulgarian invasions of northern Greece during a Turkish attack on Greek islands in the Aegean.

Consequently, the Greek decision on whether the U.S. bases should stay or not will hinge on what additional financial advantages the continued U.S. presence might represent for Greece as opposed to the disadvantages of closing them down. A Greek minister told me: "This is not an issue of having a

friend around in a spare room but of how much rent we can get from an unloving tenant versus how much it would cost us to terminate his lease." It is coldblooded, but that is what I was told. The government in Athens claims that Turkey gets NATO weapons on much better terms than does Greece, and this is not easily acceptable in Athens.

I come to the specific issue which bothers the Greeks, and that is: Who are the Macedonians? There are people in Canada who call themselves Macedonians.

In the fourth century B.C., after the death of Alexander the Great, his empire was divided among his generals. One division, the kingdom of Macedonia, represented the core domain of Alexander's father, covering what is now Greek Macedonia, southern Yugoslavia and southwestern Bulgaria, as honourable senators will see from the map I have given them. Eventually, this territory became a Roman province.

The Christian Church established an Archbishop of Macedonia, covering the same territory as the Roman province. The eastern Roman empire, that is, the Byzantine empire, retained the province of Macedonia as an adminstrative division.

Slav-speaking people invaded that part of the Balkans in the sixth century A.D., as did Turks later. The Turkish empire dealt with its subject people through their religious leaders, for instance, the Greek Orthodox Archbishop in Macedonia.

The people of the Turkish province called Macedonia, when they emigrated to Canada, among other places, called themselves Macedonians because they came from a Turkish province called Macedonia. Hence the identification of some Slav-speaking immigrants as Macedonians in Canadian municipal records from the early years of this century.

However, Greek-speaking immigrants from Macedonia generally identified themselves as Greek. Why did not the Slav-speaking Macedonians identify themselves as Yugoslavs? It was because Yugoslavia, a union of various Slav linguistic groups, was not so named until 1929. The various Slav tribes inhabiting Macedonia did not identify with the Slav nation states of the kingdoms of Serbia and Bulgaria because the various Slavic tribes inhabiting Macedonia did not feel their interests were taken into account by the kingdoms of Serbia and Bulgaria in the early twentieth century. Apparently, they still do not. That is why Macedonia is a separate political division of the Yugoslavian federation. However, the Greeks inhabiting the Turkish province of Macedonia at the beginning of this century thought of themselves as Greek and were fighting an independence guerrilla war against the Turks.

A 1909 Turkish census showed that in the part of ancient Macedonia which is now in Greece—as you can see from the map—the overwhelming majority of the population, that is, 86 per cent, attended religious services in Greek, in Greek Orthodox churches. The emphasis is on churches, because the Turks divided their subject people by religion.

In the 1911-1912 Balkan war, Greece, Bulgaria and Serbia—the precursor of Yugoslavia—evicted Turkey and divided the ancient province of Macedonia among themselves. The Greeks took the part adjacent to Greece, which had had an overwhelming Greek population in the 1909 census which I mentioned a short while ago.

There were exchanges of population—in other words, uprootings. Slav-speaking Macedonians who had lived under the Turks in what is now Greek Macedonia felt they had lost their homeland when they moved to Yugoslavia or Bulgaria. There were Greek-speaking Macedonians who had lived in what is now Bulgaria or Yugoslavia who also felt they had lost their homeland when they moved to Greece.

Yugoslavia has tried to sooth the regional nationalism of its southern republic, Macedonia, by encouraging the people of that region to think of expansion into Greece. In a sense, the Communist guerrilla war against Greece from 1944 to 1950 represented an attempt by the Iron Curtain countries to push down to the Mediterranean at the expense of Greece.

In both world wars, Bulgaria seized Greek and Yugoslav parts of ancient Macedonia, but lost and had to give them up. This shows how old land claims are persistent, even if not valid.

Similar observations can be made about Thrace. Any art critic would say that its ancient artistic heritage is clearly Greek, but it is exhibited here in Canada by Bulgaria as Bulgarian. The Greeks are sensitive to such things. "It's as if the Japanese took credit for Westminster Abbey," I was told in Athens, "or as if the British claimed Joan of Arc." Claims by Slavs in Yugoslav Macedonia that Alexander the Great was theirs caused similar indignation. The Slavs came to the Balkans nine centuries after Alexander's death.

But what does ancient history matter? What do such symbols matter? Well, the fact is that they do. The British are proud of Good Queen Bess and of Drake, and surely no one in Canada thinks that is wrong. The very Greek inhabitants of the Greek province of Macedonia are proud that Alexander the Great was born in Greek Macedonia to a father who spoke Greek and was Greek. They do not forget that Alexander was tutored by another Macedonian, Aristotle, who never doubted himself that he was Greek. This pride in their Greek ancestry kept the Macedonians Greek through centuries of foreign domination, which they fought, side by side with the Western Allies, through the two World Wars and in a brutal war against Communist guerillas backed by the Iron Curtain countries of the Stalin era.

● (1630)

The Greeks see in this "cultural expropriation" an attempt to keep alive Bulgarian claims on Greek territory.

They are puzzled by the lack of sensitivity shown towards these issues by Canadians who were so incensed when General De Gaulle shouted "Vive le Québec libre." The whole point at issue, honourable senators, is a booklet, published with the use of Canadian funds, entitled "Macedonians", which contains this map which you have seen and which says that Greek Macedonia should be returned to the Macedonians. The Greeks say that Macedonia is in the hands of the Greek Macedonians.

The Hon. the Acting Speaker: If no other honourable senator wishes to speak, this inquiry is considered debated.

THE CONSTITUTION

CONSTITUTION AMENDMENT, 1987—MOTION TO TRANSMIT COPY OF SENATE RESOLUTION TO LEGISLATIVE ASSEMBLIES AND FOUR NATIONAL ABORIGINAL ORGANIZATIONS—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Marchand, P.C.:
>
> That the Honourable the Speaker do transmit to the Legislative Assembly of each province a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, and urge that the provinces do likewise; and
>
> That a copy of the said Resolution be transmitted by the Honourable the Speaker to the Legislative Assemblies of the Yukon and of the Northwest Territories and to the four National Organizations representing the aboriginal peoples of Canada.—(*Honourable Senator Frith*).

Hon. Charlie Watt: Honourable senators—

The Hon. the Acting Speaker: Honourable senators, if Senator Watt speaks now his speech will have the effect of closing the debate on this motion.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this order stands in my name. Senator Watt and I have discussed this motion. It is in two parts, the first of which proposes that the Speaker transmit to the legislative assembly of each province a copy of the Resolution to amend the Constitution of Canada that was adopted by the Senate on April 21, 1988, and urge that the provinces do likewise. The second part of the motion is that a copy of the said Resolution be transmitted by the Speaker to the legislative assemblies of the Yukon and of the Northwest Territories and to the four national organizations representing the aboriginal peoples of Canada.

Senator Watt, I and others have agreed that it would be preferable to have this motion split into two separate motions. If that is done, I am happy to yield to him and to second his motions.

Hon. Orville H. Phillips: Honourable senators, earlier today Senator Flynn was present. When he left he asked that, if this motion came up, it be allowed to stand in his name. I just want to ask that that be done.

Senator Frith: We will not dispose of the matter today. If Senator Phillips wishes to adjourn the debate on the two motions in Senator Flynn's name, of course we will not resist that.

[Senator Gigant]

CONSTITUTION AMENDMENT, 1987—MOTION TO TRANSMIT COPY OF SENATE RESOLUTION TO LEGISLATIVE ASSEMBLIES AND FOUR NATIONAL ABORIGINAL ORGANIZATIONS DIVIDED—DEBATE ADJOURNED

Hon. Charlie Watt: Honourable senators, with the concurrence of the seconder of my motion, Senator Len Marchand, I now ask for the consent of the Senate to split the motion before us into two.

The first motion would now read:

> That the Honourable the Speaker do transmit to the Legislative Assembly of each province a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, and urge that the provinces do likewise.

The second motion would now read:

> That a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, be transmitted by the Honourable the Speaker to the Legislative Assemblies of the Yukon and of the Northwest Territories and to the four National Organizations representing the aboriginal peoples of Canada.

I make this request at the suggestion of Senator Lang and others who have spoken to me privately. If I understand them correctly, they are suggesting that we should not be mixing apples and oranges in the same motion.

They have made the point that, if the Senate is to institute the practice of communicating directly with the legislative assembly of each province in order to facilitate the Constitution amendment procedure found in Part V of the Constitution Act, 1982, we should do it in a separate and self-contained motion. This would leave no doubt that the Senate would be acting as one of the 12 legislative bodies involved in authorizing the proclamation of an amendment to the Constitution.

Nevertheless, I maintain that the Senate should also communicate with the territorial assemblies and the four national organizations for the reason I originally outlined when I made my motion.

Although these bodies do not play a role in the Constitution amendment formula we are now operating under, I feel the Senate has a responsibility to communicate with these groups through a separate resolution. As I stated in my original speech, the rights of the aboriginal peoples could be affected by our resolution, and they have been recognized as legitimate participants in Canada's constitutional reform process.

Moreover, after the special emphasis the Senate placed on northern concerns with the Meech Lake Accord, I think that it is only natural that we keep the people of the territories informed of the results of our deliberations by communicating with them through their legislative assemblies.

I therefore ask that the Senate give its consent to the splitting of the motion, and that we adopt the two motions at the next sitting of the Senate.

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

Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): Perhaps we should have it understood that the original motion has now been split into two separate motions. I take it that Senator Phillips will move the adjournment of the debate on both motions in Senator Flynn's name.

Hon. Orville H. Phillips: That is correct.

Hon. Len Marchand: Honourable senators, I understand that these motions require a seconder. Since I was the seconder of the original motion, I would like it clearly put on the record that I second both of these motions as they now stand.

Senator Frith: Honourable senators, although I offered to second these motions in the comments I made earlier, I am quite content to yield to Senator Marchand as seconder of both motions.

On motion of Senator Phillips, for Senator Flynn, debate adjourned.

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I believe that all remaining orders stand.

Hon. Orville H. Phillips: Agreed.

Senator Frith: At this point I believe Senator Murray wishes to revert to Question Period.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with leave of the Senate, I should like to revert for a moment or two to the oral Question Period. My purpose in doing so is to deal briefly with some questions that were put in my absence today by Senator Bonnell. I believe it is urgent that I provide a reply at once.

Hon. Senators: Agreed.

• (1640)

QUESTION PERIOD

[*English*]

Leave having been given to revert to Question Period:

ATLANTIC CANADA OPPORTUNITIES AGENCY

STATUS OF MR. GANONG—APPROVAL OF PAYMENTS TO BOARD MEMBERS—INVESTIGATION OF ALLEGED LOAN IRREGULARITIES

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, earlier today Senator Bonnell put a number of questions on the record to me in my capacity as minister responsible for the Atlantic Canada Opportunities Agency.

The first question was:

> [Is it] true that Mr. Ganong, of the Atlantic Canada Opportunities Agency board, has resigned, and, if so, the reason behind his resignation? And is it a fact that the members of the ACOA board are allowed to approve large sums of money for themselves as directors of that board?

Honourable senators, first, the person in question is Mr. David Ganong of St. Stephen, New Brunswick. Mr. Ganong was not a member of the Atlantic Canada Opportunities Agency board; he was a member of the Atlantic Enterprise Board, which also reports to me. He resigned some time ago, stating as his reason that the company of which he is a principal intended to apply for substantial financial assistance from agencies of the Government of Canada for the purpose of modernization, expansion and so forth and he felt it would be more appropriate for him not to be a member of the board. He explained to me that as a principal of the company he would have to carry this application personally, making representations to officials, answering questions of officials and perhaps board members, and that he would feel more comfortable if he resigned.

I explained to him that the obligation on part-time members of such boards is that when a matter in which they have an interest is being dealt with they must declare their interest and must absent themselves from any consideration or participation in the deliberations related to that application. Nevertheless, as I told him in a letter, which I can table here next week if honourable senators are interested, I appreciated the reasons why, in this case, he felt it appropriate to resign, and I did not disagree with his reasons. In fact, I agreed with his course of action and accepted his resignation.

With regard to the next part of the question, "And is it a fact that the members of the ACOA board are allowed to approve large sums of money for themselves as directors of that board?", that is phrased in rather unfortunate terms, to put it mildly.

Members of the ACOA board, and the other boards in the Atlantic provinces which report to me, are, in part, provincial public servants appointed on the recommendation of their respective governments and, in part, private-sector representatives who enjoy the highest reputation in the business communities and provinces from which they come.

The policy which has existed for some considerable time, so far as I am aware, concerning part-time members of such boards is as I described it a few minutes ago to the house. When a matter in which they have an interest comes up, they may not take part in the consideration of, or deliberations of any kind relating to, that application. The ACOA board itself does not deal with applications from commercial firms; it deals largely in a policy-advisory capacity and does consider applications from non-profit institutions that wish to play some role in the economic development of the Atlantic region.

Senator Frith: Mr. McPhail gave some evidence about that in the committee.

Senator Murray: Yes; I am aware of that. The president designate of the agency, Mr. McPhail, has already given some evidence before the Senate Committee on National Finance on this matter, and we are prepared to give more evidence, if more evidence is required on these matters.

The next question put by Senator Bonnell was:

> While checking into the ACOA board, could the acting leader also find out if it is true that the ACOA board is now under police investigation because of loan irregularities?

Honourable senators, I am astounded by the question. I can only tell the house that neither I nor any ministerial colleague with whom I have had an opportunity to consult in the last hour or so, nor any government official, nor any official of the agency with whom I have consulted in the last little while, has the faintest idea what Senator Bonnell is referring to here. We have not the slightest reason to believe that any police investigation is under way with regard to the ACOA board or, indeed, any other board under my ministerial jurisdiction.

I trust that if Senator Bonnell has any information to the contrary he will place it on the record in order to substantiate this question; and, if he has no such information, I trust that he will hasten to withdraw any inference that the question may have left.

Honourable senators, I would simply say in conclusion that when I appointed all the members of the ACOA board I called each of them on the telephone to ask them to take part and to become members of the board; I read to each of them from a document which was in front of me, which stated what their obligations are with respect to conflict of interest. The document that was provided to me by the government and the provisions which I read to the respective members of the ACOA board were the same provisions that had been made applicable to members of other boards.

Since that time the members of the ACOA board have received copies of the conflict-of-interest post-employment guidelines, which, while they are not really relevant to part-time members, do give a clear idea of the spirit, intent, purpose and letter of the government's conflict-of-interest policy.

Again, I am prepared at any time to answer any questions about these matters. I believe that the conduct of these boards is absolutely above reproach, as is the character and integrity of the people who are serving on them.

The Senate adjourned until Tuesday, July 19, 1988, at 2 p.m.

THE SENATE

Tuesday, July 19, 1988

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

Prayers.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-126, to amend the Bretton Woods and Related Agreements Act.

Bill read first time.

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

Hon. C. William Doody (Deputy Leader of the Government): With leave, later this day.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I want to speak to the request for leave for second reading of this bill.

I believe that at the beginning of this week we should have some understanding as to the government's plans for the Senate and its legislative program. I say that for two reasons. One is a statement by the Prime Minister that he intends to keep the House of Commons sitting all summer to implement the government's legislative plan and that, therefore, there will not be an election called and that the summer will be "business as usual." I take it that does not mean business as usual in the summer but business as usual in a normal sitting period.

The other reason I raise this point is that I, perhaps naively, had been working the last few weeks under the assumption that we had been granting cooperation to the government in its legislative program. Frequently we have given leave to deal with bills later the same say as the day of introduction in the Senate, often abridging further the time for second reading and helping, I thought, to get bills to committee for study. But, apparently, that cooperation is viewed by the government as "dilly-dallying" and "putting bills on hold". Apparently, granting, as we have for many bills, leave to proceed with first reading later the same day as the bill is introduced is looked upon by the government as putting the bill on hold. Mr. Lewis, when dealing with the ACOA Bill, said that that was not a single instance but was part of a back-and-forth legislative battle being waged between the two chambers in recent months. He said that by this morning the Senate would have 24 bills from the House of Commons "on hold".

Some Hon. Senators: Shame!

Senator Frith: He said that there were 24 pieces of legislation with which the Senate was "dilly-dallying". He called on his Liberal colleagues in the other house to accept the responsibility for what the Liberal majority in the Senate is doing by putting these bills on hold and by dilly-dallying with them.

Honourable senators, let us look at the bills we are "putting on hold" and are "dilly-dallying" with.

In respect of Bill C-55 and Bill C-84, last week we received the message back dealing with the Senate's amendments, the House accepting some of them, and we sent it immediately to committee. I am told that the committee will report this week. Is that "on hold"?

Bill C-105, dealing with railway safety, also received accelerated second reading and was sent to committee. It was ready to be dealt with last week and will be dealt with today at third reading, with Senator Stewart, as I understand it, making a speech.

Then we have Bill C-103, the ACOA Bill. We have just received a message from the House of Commons on that bill today. The largest portion of that bill was dealt with very speedily and sent back to the House of Commons so that it could be implemented. The members of the House of Commons took the position, because of a ruling by the Speaker of the House of Commons, that we had not been polite and had not asked for their concurrence, as we ourselves had thought we should.

Senator Flynn: Ha, ha, ha!

Senator Frith: We get a "Ha, ha, ha!" from the person who said we should not be polite. "Ho, ho, ho!"—Santa Claus is back. If he looks at the *Debates of the Senate* he will see that we wanted to include such a statement in the message, and, in fact, that that statement was contained in the message.

Senator Flynn: You don't know how to read!

Senator Frith: It was Senator Flynn, "Mr. Ho, ho, ho!", who was the one who said, "No, don't be polite. Just send it back. Don't even ask for their concurrence!" Look it up.

Passing on to another bill, Bill C-83, to amend the Senate and House of Commons Act, it also was referred to the Standing Committee on Internal Economy, Budgets and Administration—as I recall, at Senator Flynn's suggestion and with our agreement. That committee referred it to a subcommittee and that subcommittee brought forward a draft report, which has been communicated to the leadership on the other side.

Then we come to Bill C-52, regarding coastal shipping. Again, that bill was given prompt treatment and was not put

on hold and was not dillied-dallied with but was referred to a committee promptly. The committee discussed some amendments. The minister agreed with the amendments, but said that he wanted to consider the wording of the amendments because he, the minister, was going to have those suggested amendments checked by his officials. So, if that bill is on hold, it is the minister who has it on hold and the government that has it on hold.

An Hon. Senator: More dilly-dallying!

Senator Frith: I am not accusing the government of dilly-dallying, because it is not, but certainly the Senate does not have that bill on hold.

Then we come to Bill C-72, the Official Languages Bill, not exactly a minor piece of legislation. That was introduced in the Senate and we were ready to debate it on Tuesday last. Senator Murray, quite understandably, wanted to start the debate on the bill, so we dealt with it on Wednesday and Thursday. We then established a special committee on the spot to deal with that legislation and referred it to that special committee. That special committee has already been organized and will hold its first meeting today.

Senator Wood: Tomorrow.

Senator Frith: Tomorrow. More dilly-dallying! We have had two days' debate on that bill and it was referred to a special committee so that it could be given speedy passage. That special committee has already started and has held one meeting, but the government says that the Senate has put it on hold, that it is dilly-dallying.

Senator Barootes: What is your point?

Senator Frith: Senator Barootes has not yet got the point. I had forgotten that Senator Barootes, as we noted last week, is a bit of a slow learner, so I will try to speak more slowly.

Senator Flynn: No, just more intelligently.

Senator Frith: Then we come to Bill C-58, relating to the Criminal Code and international treaties. Again, that got accelerated treatment in the house and was referred to a committee. The committee has dealt with that bill and it will be reporting on it this week.

Bill C-61, proceeds of crime: accelerated treatment in the house, sent to committee, the committee has already studied it and will be reporting probably this week. Bill C-75, Canada-Nova Scotia energy agreement: as I recall it, we gave it one day's debate and sent it to the committee July 13. "Dilly-dallying"? Bill C-93, multiculturalism: ready for third reading today. Bill C-124, Canada Labour Code: again accelerated treatment; just got it last week, ready for third reading today. Bill C-121, Eldorado, is here now for first reading, as is Bill C-129. These are bills that I assume the leadership in the other place says we have put on hold. We only saw them ten minutes ago. Bill C-126, Bretton Woods, first reading today; Bill C-92, first reading today; Bill C-73, up for first reading today, along with possibly Bill C-30—all here only for minutes.

[Senator Frith.]

Senator Barootes: I guess we should have pre-studied them all!

Senator Olson: No. I guess your comments are inaccurate.

Senator Frith: Let us just realize what we are being accused of. What the Senate is being accused of is dilly-dallying. We are told there are 24 pieces of legislation. Well, there are not. If you take Bill C-55 and Bill C-84 as two separate bills, there are one, two, three, four, five, six, seven, eight, nine, ten, eleven— Are you following, Senator Barootes?

An Hon. Senator: You're going too fast; he's out of fingers!

Senator Frith: —twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen and nineteen. There are 19 bills before the Senate, not 24. And of those 19 bills we have yet to have nine for more than ten minutes. Is that dilly-dallying, taking ten minutes?

An Hon. Senator: No. It is shocking.

Senator Frith: Bill C-121 and Bill C-129—there are two bills. Three, four, five, six, seven of the 18 bills. He must be including them, because he said, "by tomorrow morning." And he is fed up with our dilly-dallying over bills that we have not even seen. He says, "We regret very much these delaying tactics." How could he say we were going to delay these bills when we had not ever received them?

Senator Bosa: He is a master of anticipation!

Senator Frith:

> This is not a single instance. By tomorrow morning—

I am reading from July 18, so when he says "tomorrow morning" he means today.

> —the Senate will have twenty-four bills from the House of Commons on hold, 24 pieces of legislation with which the Senate is dilly-dallying, on which it is not going forward.

So, honourable senators—

Senator MacDonald: A simple "no" would suffice.

Senator Frith: I notice you listened long enough before you said that. Thank you for your attention. There's one fast learner.

Honourable senators, according to my understanding, we have at least three of these bills already: Bill C-137, which must be one of those with which the leader in the other place says we are dilly-dallying; the message on Bill C-103; and these other bills that we will receive. Since the Prime Minister says it is business as usual and that we are going to be sitting all summer anyway, and since if we grant short notice on any of these bills we are accused of dilly-dallying and putting them on hold, I cannot understand—although we are prepared to listen to a reason—why, against that background, we should in any way abridge the time provided in the rules and why we should not proceed with business as usual.

An Hon. Senator: Right on!

Hon. Senators: Hear, hear!

Senator Doody: Well, honourable senators, thank you, thank you, thank you. I appreciate the applause before I speak, because I doubt very much that I will get any afterwards!

All I can say, honourable senators, is that we try to conduct the business in this place as it suits this place. What they do in the House of Commons is beyond my control, as I suspect it was beyond the control of my counterparts when they were in this position. We get government business and we deal with government business as it comes. The cooperation that we get from honourable senators opposite is appreciated. When honourable senators opposite see fit to go into further detail on bills or to slow down the progress, for whatever reason, then that is obviously their choice. The same choice applies to the legislation we have before us today. In an effort to conclude the business as quickly as possible in order to try to get some time off this summer, I thought that it would be helpful to deal with these bills at second reading today, get them into committee and let the committees deal with them next week. But if it is the wish of the majority of this place that we deal with them in the normal course of events, with two days' notice, and follow the rules strictly, as they were written, then that is fine with us. We are prepared to stay here to deal with government business for as long as the majority of the Senate feels that we should.

• (1410)

Some Hon. Senators: Hear, hear!

Senator Frith: Does the government have any plan other than the one suggested by the Prime Minister, namely, that we would be sitting all summer?

Senator Doody: I am not sure that that is exactly or entirely what the Prime Minister said. Presumably, that is a news item that my friend was quoting from. I have not seen it nor do I know its context.

Senator Frith: I saw the Prime Minister say it on television.

Senator Doody: If the honourable senator got the impression that the Prime Minister would like to see the government's business dealt with before we adjourn, I am sure that is exactly what the Prime Minister would like to see, whether or not it takes all summer to do it. I hope that is not a necessity. I hope that we get the agenda dealt with long before the summer is over. I may be wrong; it may take all summer; but, if that is so, then that is what we are going to have to do.

Senator Guay: The Prime Minister is on holidays.

Senator Doody: I did not mean to interrupt you!

Senator Guay: The Prime Minister is on holidays while we are sitting here. He has taken his holiday.

Senator Doody: Thank you; that was very helpful. I should have thought it would be in the interests of all of us to move the agenda along in anticipation of some time off this summer. But, as I say, the rumours are rampant in this place that there is a hope to clear up by the end of this week in the other place. That is a strong rumour; that is not a fact. I do not know how firm an agreement, if any, has been reached. I know that is the aim and the ambition and the hope of some of the officials in the other place.

I had hoped that we might be in a position to go along with that in step, but it may take us a little longer. It may not be possible under the present circumstances, in which event we will simply have to do the best we can within the rules of the Senate.

Senator Frith: Honourable senators, I was not dealing with a rumour. The Prime Minister said on television, after a meeting at Meech Lake, if you will pardon the expression, that there will not be an election and that the government will be having the House of Commons sit all summer until the government's legislative program is completed. So I am going to have to rely on what the Prime Minister said, that that is the plan that the government has for Parliament for the summer.

If Senator Doody is in a position to say—and maybe tomorrow he will be—that the Prime Minister's plan has changed so that Parliament will be taking a break this Thursday or Friday, or sooner or later, then I think we should consider giving accelerated treatment to acceptable legislation that might meet a Royal Assent deadline this week in anticipation of a summer break.

In the absence of that, we will follow the Prime Minister's suggestion or plan that it will be business as usual, and we will not be granting leave for any abridgement of time provided by the rules. We are quite prepared, however, to listen to a change in the government's plan or a clarification of that plan tomorrow. In the meantime, business as usual.

Senator Guay: We should follow the Prime Minister's example and take a break too!

Senator Doody: I assume, then, that what has been said in response to a request for leave on Bill C-126 will be said in response to similar requests on Bills C-73, C-129, C-121, C-110, C-92 and C-30. Would that be a reasonable assumption?

Senator Frith: Yes.

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

Senator Doody: It was our hope that the bills would be read the second time as soon as possible, but apparently honourable senators opposite would prefer that we bring in some sort of schedule relating to the business of the other place. I am not in a position to do that. I cannot tell honourable senators when the other place is going to rise or when it is going to finish its business. I suggest that they consult with their party leaders in the House of Commons, and I will do so with ours. If we receive information in this regard, perhaps we can ask for leave tomorrow; otherwise, second reading will be given to these bills on Thursday next.

Senator Frith: Yes, honourable senators, second reading debate will begin for the bills on Thursday. We have already said that, if there is a change of plan, if there is some reason why we should make exceptions to facilitate the Prime Minister's plans, we can hear about it tomorrow. We are prepared to

consider bringing these bills forward for debate tomorrow, if the government has other than a business-as-usual schedule.

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, July 21, 1988.

INDIAN LANDS AGREEMENT (1986) BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-73, to provide for the implementation of an agreement respecting Indian lands in Ontario.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, July 21, 1988.

AIR CANADA PUBLIC PARTICIPATION BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-129, to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, July 21, 1988.

ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-121, to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain acts in consequence thereof.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, July 21, 1988.

CANADIAN INTERNATIONAL TRADE TRIBUNAL BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-110, to establish the Canadian International Trade Tribunal and to amend or repeal other acts in consequence thereof.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, July 21, 1988.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-92, to amend the Canadian Wheat Board Act.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, July 21, 1988.

NATIONAL PARKS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-30, to amend the National Parks Act and to amend an act to amend the National Parks Act.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, July 21, 1988.

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

MESSAGE FROM COMMONS—MOTION FOR REFERRAL TO COMMITTEE—DEBATE ADJOURNED

The Hon. the Speaker *pro tempore:* Honourable senators, I have the pleasure to inform the Senate that a message has been received from the House of Commons. This message has been distributed to each senator. Shall I dispense with the reading of the message?

Hon. Senators: Dispense!

(*Text of message follows:*)

HOUSE OF COMMONS
Canada

Monday, July 18, 1988

Ordered,— That a Message be sent to the Senate to acquaint Their Honours that this House disagrees with the text of the Message made by the Senate to Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, because this House believes that in dividing the Bill, the Senate has altered the ends, purposes, considerations, conditions, limitations and qualifications of the grants of aid and supplies set out in the Bill, contrary to Standing Order 87, as recommended by Her Excellency the Governor General to this House, and has therefore infringed the privileges of this House, and asks that the Senate return Bill C-103 in an undivided form.

ATTEST

ROBERT MARLEAU
The Clerk of the House of Commons

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

Hon. C. William Doody (Deputy Leader of the Government): With leave, now.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I move, seconded by the Honourable Senator Doody, that the message from the House of Commons be referred to the Standing Senate Committee on National Finance.

The Hon. the Speaker *pro tempore:* Honourable senators, is it your pleasure to adopt the motion?

Senator Murray: Honourable senators, it is hardly necessary for me to place on the record the sequence of events that has landed us in the situation in which we find ourselves today with regard to this bill. These events have attracted considerable attention and comment in the nation's media, in particular in the media in the Atlantic provinces, which is the region most concerned with this bill.

Honourable senators, we cannot, I suppose, take what is called judicial notice of statements made in the media. Nevertheless, I have taken personal notice of the statements attributed to the Honourable the Leader of the Opposition in the Senate on this matter within the last couple of days. If he has been correctly reported, I take it that his position and that of his colleagues is that they do not intend to contest the ruling that has been made by Mr. Speaker in the other place; the decision that has been taken by the other place; and the message that has been sent by them to us to the effect that the bill should be sent back to the House of Commons from this place as one bill, not as two bills.

That being the case, I felt that the most expeditious way of dealing with this matter at this time would be to refer the message from the House of Commons to the Standing Senate Committee on National Finance. Indeed, the Honourable the Leader of the Opposition has indicated, in the remarks attributed to him in the media in the last couple of days, that it is the intention of honourable senators opposite to deal with the bill as one and to give it further examination in committee. It is with a view to expediting this process that I have made the motion which Your Honour has just read to the house.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I want to say at the beginning that the quotations to which Senator Murray referred in his comments, as far as I am concerned, were accurate.

However, the issues that have been raised by the motion that has been made by Senator Murray are quite numerous and complicated. I think it is impossible today to deal with the motion, if only for the reason that I have not had an opportunity to read the debate in the House of Commons on the message itself. Before dealing with Senator Murray's motion it is necessary to examine the argumentation made in the House of Commons, if any, in support of the motion which it adopted. If the argumentation is so convincing that the division of Bill C-103 resulted in changing the considerations, conditions, and so on, of the supply and grants-in-aid in Bill C-103—if that contention were validated by the argumentation—one might have pause. It is for that reason that I should like to read the debate.

Let us bear in mind that the Senate, this body, sent the message to the House of Commons on July 7, 1988. The Speaker reported the message on July 8, and it appeared in the order paper of the House of Commons on the following Monday. The action taken by the government on that Friday—the day after the message was transmitted from this house—preceded any ruling by His Honour the Speaker. Indeed, the reasons advanced in the message from the House of Commons are not at all adjudicated by His Honour in his ruling.

• (1430)

However, I mention the time factor because the House of Commons kept the message from the Senate for two weeks less two days. Therefore, I hope that no one will accuse us of dilly-dallying or of delaying tactics if we take perhaps a few days to deal with the message from the House of Commons and the motion made by Senator Murray, because there are a number of things I believe ought to be said on behalf of the Senate on the issues that have arisen.

Honourable senators, in order that misapprehension will not occur, let me say that it is certainly not my intention to contest the bill or to persist further in advocating the division of the bill. In my judgment, that division had real merit, in that, first of all, it would have ensured that the government could enact the ACOA portion of Bill C-103 on July 8 and that the Senate would be able to continue with its consideration of the separate subject of Enterprise Cape Breton Corporation. I believe that those merits justified the proposal made in the Senate.

However, the House of Commons has said, "No, we disagree with your proposal," and it is not, in my view, worth the further effort to continue that process, because the advantages were really in the way of facilitating the government legisla-

tion. If our proposal had been accepted, ACOA, Part A of the original bill, would be the law today. It is not; but that does not end the matter.

Senator Murray has now moved that the message from the House of Commons go back to the Standing Senate Committee on National Finance, where it may be considered. The result of that consideration is unknown, but we all know that if further progress is to be made the Standing Senate Committee on National Finance will have to begin anew any consideration of Bill C-103, because Bill C-103 has not been reported out of that committee at all, and, in the words of the message from the House of Commons, the undivided Bill C-103 will engage the attention of that committee.

Certainly, as I said in comments to the press, it is not our intention to deal with Bill C-103 except in a normal and orderly way and, if justified, to move amendments. If amendments are unnecessary or are not justified, they will not be moved.

With those preliminary comments, I should like honourable senators to have an opportunity to read the debate in the other place and consider Senator Murray's motion further. Now may I adjourn the debate?

On motion of Senator MacEachen, debate adjourned.

ENERGY AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Earl A. Hastings: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Energy and Natural Resources have power to sit at four o'clock in the afternoon today, even though the Senate may then be sitting, and that Rule 76(4) be suspended in relation thereto.

The Hon. the Speaker *pro tempore:* Is leave granted honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

OFFICIAL LANGUAGES BILL C-72

SPECIAL COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Dalia Wood: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Special Committee of the Senate on Bill C-72, An Act respecting the status and use of the official languages of Canada, have power to sit at two o'clock in the afternoon, tomorrow, Wednesday, 20th, July, 1988, even though the Senate may then be sitting, and that Rule 76(4) be suspended in relation thereto.

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

[Senator MacEachen.]

Hon. Senators: Agreed.

Motion agreed to.

• (1440)

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF SENATE

Hon. Ian Sinclair: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at four o'clock in the afternoon tomorrow, even though the Senate may then be sitting, and that Rule 76(4) be suspended in relation thereto.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

ENERGY

TAR SANDS PROCESSING PLANT, FORT McMURRAY, ALBERTA—GOVERNMENT'S FINANCIAL COMMITMENT—DATE OF COMMENCEMENT OF PROJECT

Hon. H.A. Olson: Honourable senators, I have a question for the Leader of the Government in the Senate in his capacity as Minister of State for Federal-Provincial Relations. I have put this question to him a number of times previously. It has to do with the so-called OSLO project near Fort McMurray, Alberta. The *Edmonton Journal* has a front page story today indicating that the federal government has made an offer to a number of companies involved—I think there are six—to "kick start" the project with about $1 billion of grants, plus some guaranteed loans, to get this project under way.

I should like to ask the minister if it is a fact that an offer of this magnitude has been made by the federal government to the project managers of the OSLO project.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am sorry, I cannot add anything to what I have already told the house on that matter.

Discussions are continuing, and I will make inquiries to see whether there is anything further to report on that matter at this time.

Senator Olson: Honourable senators, according to the Minister of Energy for Alberta, within the last few days something new was added to the federal government's participation in this project. Would the minister care to comment on what has been added that was not offered before?

I can tell him that there are thousands of people in Alberta who are looking forward with great anticipation to this project getting under way. Therefore, when the federal government is making offers so that the project can be initiated, I think the minister has a responsibility to let the public know.

Senator Murray: Honourable senators, I appreciate the interest of my honourable friend and of the people of Alberta, but I have to tell him that the federal and provincial governments and the sponsors are still reviewing proposals. That is why it is not open to me to divulge the contents of the various proposals that have been made and that are being considered. Negotiations are continuing.

Senator Olson: May I try one more time?

Can the minister give us some indication of when the project will be under way? He need not tell us whether the amount involved is $1 billion in grants or $1.5 billion in guaranteed loans; if that is still a matter of negotiation, so be it. Could the minister give us an indication of when the federal government hopes the project will get under way if the amounts and the other terms and conditions are acceptable to the three parties involved?

Senator Murray: Honourable senators, I am sorry, I cannot do that today.

FOREIGN AFFAIRS

PARAGUAY—STATUS OF SENOR HERMEN RAFAEL SAGUIER—GOVERNMENT KNOWLEDGE AND ACTION

Hon. Lorna Marsden: Honourable senators, I wish to ask the Leader of the Government in the Senate if he will take the necessary steps to inquire into the safety, freedom and whereabouts of Senor Hermen Rafael Saguier, a citizen of Paraguay.

I would be glad to share with the leader or his staff the small amount of information I have on this man. As I understand the situation, he was given political asylum in the Colombian Embassy in Paraguay this spring, but voluntarily left that protection after accomplishing his objective of gaining asylum in that embassy for a fellow citizen who was being persecuted by the Paraguayan government.

To be specific, will the Leader of the Government in the Senate inquire whether the Government of Canada has taken any steps in relation to this matter; whether it has undertaken any inquiries; whether it has any information about this man's freedom and whereabouts; and, specifically, if, in the knowledge of the Government of Canada, Senor Saguier is now under house arrest or reprisal of any kind by the Government of Paraguay?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall inquire as to what information the Government of Canada has on this matter.

ENERGY

HEAVY OILS—CONSTRUCTION OF UPGRADER AT LLOYDMINSTER, SASKATCHEWAN—GOVERNMENT FUNDING AND ACTION

Hon. Sidney L. Buckwold: Honourable senators, my question is for the Leader of the Government in the Senate.

All of us have heard, with interest, of the federal government's participation in the development of the Hibernia oilfields in the Newfoundland area at a cost of about $3 billion to Canadian taxpayers.

Senator Doody: Hear, hear!

Senator Buckwold: I join with Senator Doody in applauding the deal.

However, my question relates to the situation in my area, namely, the heavy oil fields in Lloydminster, Saskatchewan, where for some years now there have been negotiations between the federal and provincial governments and the industry in terms of upgrading the heavy oil in a proven field of immense potential.

We hear conflicting rumours in the sense that one week the project is to go ahead, the next it is doubtful whether it will go ahead, and the next week the rumours may be to the effect that the project will be cancelled.

My question to the Leader of the Government in the Senate is one I think he will understand. Is the Government of Canada continuing active negotiations with the Province of Saskatchewan, the Province of Alberta and the industry itself? Is there any chance of an announcement in the near future? Is the government prepared to be as generous to that area of the country as it was to Newfoundland in supporting a project that, at the moment, may not be economically as sound as it was, considering the price of oil? Finally, can we look forward to an announcement in the future?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The honourable senator will be aware that some weeks ago an agreement was reached between the federal government, the governments of Alberta and Saskatchewan and Husky Oil relating to the upgrader project. The honourable senator will also know that private equity contributions were made to finance half of the project costs.

My information is that Husky is currently in the process of negotiating with other private sector participants.

Senator Buckwold: Is it your response that the deal is ready to go forward once Husky is able to announce its successful negotiations with the other parties? By any chance, is the federal government prepared, as was the case in Hibernia, to sweeten the deal?

● (1450)

Senator Murray: Honourable senators, I cannot comment on the last half of the question, of course.

Senator Frith: The leader could, but he does not to want to.

Senator Murray: Husky sought and Husky received an agreement that would make it possible for that company to seek new private equity participation in the financing of the project. As I have indicated, this financial package was such, Husky felt, as to enable it to find other private sector partners. The government's participation generally is in respect of low interest loans to cover the other half of the total project costs.

I do not think I can go further than that at the moment. I am certainly not at liberty to release the agreement, pending conclusions of negotiations between Husky and its potential private sector partners.

CORRECTIONAL SERVICE OF CANADA

RESIGNATION OF COMMISSIONER AND DEPUTY COMMISSIONER—GOVERNMENT ACTION—REQUEST FOR FURTHER INFORMATION

Hon. Earl A. Hastings: Honourable senators, before putting my question to the Leader of the Government in the Senate, may I ask him, on the first occasion he is speaking to the Solicitor General, to commend him for his bold and imaginative action in launching an inquiry into the TV viewing habits of the inmates in Edmonton Institution? Of all of the problems facing the Correctional Service of Canada, I think the TV viewing habits of the inmates in Edmonton Institution is about the 784th, but this bold action by the minister, by way of a royal commission or an inquiry under the Inquiries Act, will no doubt result in great advances in corrections, and possibly lead to legislation and a special recall of Parliament when the public's safety is at risk.

My question is the same as the question I asked last week respecting the resignation of the man who had trouble following guidelines. At that time I asked:

> Did the government ask for and receive the resignation of Mr. Rhéal LeBlanc, Commissioner, and Mr. Gordon Pinder, Deputy Commissioner, Offender Policy and Program Development?

Both men resigned within weeks of the report of the Comptroller General of Canada that the awarding of over $600,000 worth of contracts to an Edmonton firm was not in conformity with guidelines set by Treasury Board. It was the minister who said that the commissioner had trouble following guidelines. Those words are not mine.

My question again is: Did the government ask for the resignation of those two people?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do believe I answered the question insofar as it relates to Mr. LeBlanc. I answered the question in the negative.

I have asked for a report on the question insofar as it relates to Mr. Pinder.

Senator Hastings: As a supplementary, if I recall, the Leader of the Government in the Senate indicated that he would check his information to see that it was correct. I am wondering if he has had an opportunity to check his information and will now respond on behalf of the government. The Leader of the Government is a member of the executive and can speak for the government. I ask him again: Did the government ask for the resignation of Mr. LeBlanc and Mr. Gordon Pinder?

Senator Murray: Honourable senators, if any of the information I have placed on the record in this matter turns out to have been incorrect I shall hasten to correct the record.

ABORTION

BOROWSKI APPEAL TO SUPREME COURT OF CANADA—GOVERNMENT REQUEST FOR DELAY—GOVERNMENT LEGISLATIVE ACTION

Hon. Stanley Haidasz: Honourable senators, I should like to ask the Leader of the Government in the Senate whether he would kindly elaborate upon the government's decision to ask the Supreme Court of Canada to delay its decision on the Borowski case.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, it is the position of the government and of my colleague, the Attorney General, that, the government having indicated its intention to take a legislative approach on the question of abortion, the legislative position should be on the record before their lordships proceed with this case.

Senator Haidasz: Honourable senators, I have a supplementary question. Is it the intention of the government to proceed with the debate on its proposed resolution of three options for a vote in the House of Commons on the abortion issue? Is it the intention of the government to pursue the debate on this resolution before the House of Commons recesses for the summer break?

Senator Murray: Honourable senators, I do not know, and the honourable senator does not know, when, if at all, the House of Commons will adjourn for the summer break.

As to whether the government would proceed with a resolution relating to abortion, we wish to do so, but the modalities are now being discussed between the house leaders in the other place.

Senator Haidasz: I have a supplementary question. I should like to ask the Leader of the Government whether he is aware of the reply of the Supreme Court of Canada with regard to the request of the Minister of Justice regarding delaying the Borowski decision.

Senator Murray: No, honourable senators, I am not.

Hon. John B. Stewart: Honourable senators, may I ask the Leader of the Government in the Senate if I understood correctly that the government is considering the possibility of having the House of Commons adjourn for the summer break while leaving the question of abortion in the unsatisfactory state in which it now rests? Will the members of the House of

Commons go off on their summer break and leave the question of abortion in limbo?

Senator Murray: That question is both procedural and even theological in its implications, but, to come to the procedural part, that is a matter for the House of Commons. The government would like to proceed with a resolution on abortion so that the House of Commons could give a direction to the government as to the legislation that the House of Commons would want to see on this matter. Unfortunately, procedural problems have intervened with the resolution that was on the order paper. It has been withdrawn. The government house leader in the other place has been holding discussions with his counterparts to try to find a way of proceeding that would be acceptable on all sides.

There, I am afraid, I must leave it. The rest would be speculation on my part.

Senator Stewart: Honourable senators, the answer given by the Leader of the Government implies that the question is now in the hands of backbenchers on the government side and in the hands of people in opposition parties who are not under the yoke of responsibility. Now he is saying—

Senator Murray: But who fought our proposal?

Senator Stewart: Is it the desire of the government to evade the responsibilities which rest with a government under a system of responsible government in connection with a matter as important as the abortion question?

Senator Murray: Honourable senators, the ultimate outcome of this matter will be determined by Parliament in response to a government bill that will be brought forward in the normal way and subject to the normal conventions of collective responsibility that we all understand.

In the meantime the government is of the view that it is in the public interest to allow individual members of Parliament the opportunity to vote their consciences on a matter that has moral and religious implications. Therefore, we decided to proceed by way of resolution. In this way the honourable members of the other place will have an opportunity to vote their individual consciences on this matter. The result of that vote will constitute a direction to the government to bring in legislation on this matter. We believe this is the way that best reconciles the need for the members to vote their personal convictions on a matter of this importance with the need to have legislation brought in by the government—legislation subject, as I say, to the usual conventions.

● (1500)

Senator Stewart: May I then ask whether the implication of this response is that the government proposes to do nothing with regard to this important matter until such time as it has been able to work out with opposition parties some form of procedural device for an opinion poll to be taken in the House of Commons? Is it only after that that the government will see fit to proceed in what the honourable senator has called the normal way?

Senator Murray: I regret that the honourable senator does not appreciate the uniqueness of this situation. I also regret that he finds it so reprehensible that, on a matter of this seriousness, individual members of the House of Commons are to have the opportunity to vote their moral convictions on a matter of this kind. The government will exhaust every avenue in order to obtain the cooperation of members of Parliament so that we can proceed in an orderly way. It should not be beyond the ingenuity of members of the other place to devise a procedure that will allow members of Parliament to vote their individual consciences and come to a collective point of view that will constitute an instruction to the government to bring in legislation.

Hon. Lorna Marsden: Honourable senators, I am puzzled by the comments of the Leader of the Government about the need for ingenuity in the other place. Why does the government not bring in a bill and allow a vote on that? Why does the government need an ingenious solution to a traditional practice?

Senator Murray: We need that sort of solution because we want to give to all members of the House of Commons, including members who would otherwise be bound by cabinet solidarity, the opportunity to vote on a resolution their individual preferences in this matter.

Senator Stewart: Honourable senators, when was it established that members of a government are required to respect the convention of cabinet solidarity on a free vote? When was that new convention introduced—this afternoon?

Senator Murray: I regret to say that I do not understand the question the honourable senator has put.

Hon. Royce Frith (Deputy Leader of the Opposition): He has asked why the House cannot have a free vote on a bill. It's that simple.

Senator Stewart: If a bill is to be brought in by a private member or by a minister and it is announced that, as far as the government is concerned, a vote against that bill will not be regarded as entailing confidence and that all members of the government party are free to vote their consciences, why does the Leader of the Government in the Senate assert that ministers of the Crown will not be able to express their consciences in the same way as any other member of the House of Commons?

Senator Murray: Honourable senators, that would have been one option, but we felt that it would be expeditious to proceed in this way and to seek to ascertain what is the consensus of Parliament before bringing in a bill.

Senator Frith: The answer, honourable senators, is expedience.

Senator Haidasz: Honourable senators, on a supplementary question, has this government ruled out a fourth option in its resolution to be presented to the House of Commons—a fourth option which is along the lines of Bill S-16 and which has been requested by the Campaign Life Coalition?

Senator Murray: Honourable senators, I am not aware that the discussion between the house leaders relates to the content of the three options that were recently on the table so I am really not in a position to answer that question.

FOREIGN AFFAIRS

PANAMA—SAFETY AND SECURITY OF VICE-PRESIDENT—GOVERNMENT REPRESENTATION

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a question for the Leader of the Government in the Senate. I learned this week that the Vice-President of Panama, Dr. Esquivel, is now in hiding in that country. Would the government see fit to make a representation to the Government of Panama to ensure that the safety and security of Dr. Esquivel will be preserved?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no information on that matter. In order to bring forward an answer I shall have to make inquiries of my colleague, the Secretary of State for External Affairs.

THE ENVIRONMENT

STATUS OF ENERGY MINISTER'S PROPOSALS ON ENERGY EFFICIENCY AND ALTERNATIVE INITIATIVES

Hon. Joyce Fairbairn: Honourable senators, I, too, have a question for the Leader of the Government in the Senate. By way of background, Senator Spivak and I were recently sent to Toronto by the Standing Senate Committee on Agriculture and Forestry to attend the Conference on the Changing Atmosphere—an important and disturbing conference at which policy-makers and scientists from around the world explored the frightening and perhaps disastrous damage that has been and is being done to our atmospheric environment by some of the practices of industries around the world.

At that conference the Minister of Energy, Mr. Masse, indicated in a speech that he had proposals before cabinet concerning the promotion of energy efficiency and alternative energy initiatives as well as proposals in the area of research and development. Could the Leader of the Government give us some indication of the status of these proposals? Perhaps he could provide to us a timetable to which we could refer in informing ourselves on an issue which, if not addressed, makes all other issues pale in significance.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I cannot provide a timetable on these matters. They are still under consideration by cabinet.

CANADA LABOUR CODE

BILL TO AMEND—THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), for Hon. Mira Spivak, moved the third reading of Bill C-124, to amend the Canada Labour Code.

[Senator Haidasz.]

Hon. Hazen Argue: Honourable senators, I should like to say a few words at third reading of this bill. Often, in this chamber, bills are exceedingly controversial and highly partisan. From time to time, when a bill that has the general support of the various parties comes to this chamber, it should be noted; that sort of general agreement is Parliament at its best.

Honourable senators, Senator Marsden outlined at second reading our support of this bill and our pleasure in having it before us. Bill C-124 confirms the amendments to the Canada Labour Code that made the employer primarily responsible for the employees' occupational health and safety. Some measure of flexibility is provided for in areas where rigidly enforceable standards do not seem to be appropriate in terms of engineering work or structure in the workplace. The criterion here becomes "in accordance with good engineering practice" rather than a specific and detailed blueprint of what is, in fact, a good structure. Further flexibility is provided in the setting of safety standards to the latest criteria. The transition to the most current standard is to be made to the extent that it is practicable or reasonably practicable.

This bill makes particular provision for a Safety Standards Council for the Cape Breton Development Corporation. It sets a particularly good example in that the Safety Standards Committee, composed of five members, includes one ministerial appointee, two employees and two management personnel. Therefore, the corporation is represented by a ministerial appointee, by management and by employees.

I would hope that the agreement that came about for the drawing up, the promotion and the passage of this bill among government, management, labour and, in this case, all of the political parties can go forward. In labour relations generally in Canada and in management of industries and promotion of the welfare of our economy, extra effort should be made by all parties to ensure that an agreement is arrived at so that industry in this country can operate efficiently, effectively and competitively.

The Hon. the Speaker *pro tempore:* Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

CANADIAN MULTICULTURALISM BILL

THIRD READING

Hon. Efstathios William Barootes moved the third reading of Bill C-93, for the preservation and enhancement of multiculturalism in Canada.

Hon. Charlie Watt: Honourable senators, I want to make a few comments in regard to Bill C-93. While I support the overall objectives of Bill C-93, namely, the preservation and enhancement of multiculturalism in Canada, I cannot accept the passing reference in the preamble of this bill to the rights of the aboriginal peoples of Canada. More particularly, inclusion of a reference to the rights of the aboriginal peoples of

Canada in the proposed Canadian Multiculturalism Act (Bill C-93) suggests that the languages and cultures of aboriginal peoples are lumped together with that of the languages and cultures of Canada's many ethnic groups, without recognizing the very special nature of the aboriginal cultures.

Lumping native peoples together with other ethnic groups in this manner tends to denigrate and, indeed, negate the significant role—cultural and otherwise—of the native peoples as original peoples of Canada. The aboriginal peoples are not simply another ethnic group with a distinct language and culture. The aboriginal peoples are the founding peoples and original nations of Canada. Each of the aboriginal peoples has a distinct language and culture which predates and precedes in Canada that of any of the multitude of ethnic groups which came later to this great country. Any multiculturalism policy of the Government of Canada must recognize this important distinction between the aboriginal peoples of Canada and the numerous ethnic groups. To do otherwise is to deny the special nature and special contribution of the languages and cultures of the various aboriginal peoples of Canada as well as to deny the special constitutional status of the rights and interests of aboriginal peoples contained in Canada's Constitution.

I propose that a non-derogation clause be included in the proposed legislation. Such non-derogation clause should provide that nothing in the act should be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the Constitution Act, 1982.

As you are all aware, similar non-derogation provisions have been included in federal legislation—for example, the Canada Oil and Gas Act—and in bills tabled in Parliament, such as the Canada Laws Offshore Application Bill.

Consequently, I propose the following non-derogation clause for inclusion in the Canadian Multiculturalsim Bill (Bill C-93):

> Nothing in this act should be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982.*

Moreover, I propose an additional amendment to the proposed Canadian Multiculturalism Act (Bill C-93) by amending the preamble of that legislation in the third "whereas" so as to read as follows:

> AND WHEREAS the aboriginal peoples of Canada are the original Nations of Canada, each with a distinct language and culture, which constitute the underpinnings of the cultural heritage of Canada;
>
> AND WHEREAS the Constitution of Canada recognizes and affirms the rights of the aboriginal peoples of Canada;

I request that these amendments to the legislation be adopted, failing which I am unable to support the proposed Canadian Multiculturalism Act (Bill C-93).

Honourable senators, I intended to make those proposed amendments in order that they be recognized and acknowledged. However, I do not want it said that I am being obstructive or am going against the idea of a multiculturalism policy. I personally feel that a multiculturalism act is required in this country. I should like those proposed amendments to Bill C-93 recorded to ensure that the precise problems I have talked about are dealt with in this house in some way, not only to reflect on this particular bill but to reflect on other bills that have been passed from time to time.

It has been very difficult for me and my colleagues, Senator Len Marchand and Senator Willie Adams, to see bills, which are passing through this house almost on a daily basis, make a direct or indirect reference to aboriginal peoples, denying that my people were the first people in this country. From now on I shall correct this so that history will read accordingly.

Hon. Peter Bosa: Honourable senators, I should like to make a few brief remarks.

First, I want to say that I sympathize very much with Senator Watt. I realize what it means to him to be ignored in the legislation he has made reference to.

However, some of the concerns expressed by Senator Watt are not really reflected in this bill. Some of the wording has been deliberately used in order to include all of the aboriginal peoples. I have one very brief explanation in front of me which I wish to read. Perhaps Senator Watt can contact the department for a more detailed explanation.

• (1520)

I understand that the former Minister of State for Multiculturalism, Mr. David Crombie, sent a letter to Mr. John Amagoalik, co-chairman of the Inuit Committee on National Issues, in which he said that the bill does not subsume or override any custom or any rights enjoyed by the status or non-status Indians, Métis or Inuit. They did not want to mention all of these names in the bill so they used the word "aboriginal", which is the generic term and includes all of the native people. It was not intended to exclude any particular segment of aboriginal society.

Honourable senators, Bill C-93 received a multitude of representations from a variety of ethnocultural groups. In these representations many recommendations were made to the government, such as establishing an independent department of multiculturalism, appointing a commissioner of multiculturalism with terms of reference similar to the Commissioner of Official Languages and a full-time minister at the head of the new department to be known as the Minister of State for Multiculturalism. None of these recommendations has been included in this bill.

I would like to recommend to the Prime Minister that he give consideration, when this bill is proclaimed, to designating the Minister of State for Multiculturalism as the minister designate of the act, as provided in clause 2 of the bill.

Hon. Willie Adams: I wish to address a question to Senator Bosa. I think that in his opening remarks last week on Bill C-93 Senator Barootes included the aboriginal peoples in that bill. Perhaps you could tell me what clause does not include the aboriginal peoples. Last week Senator Barootes stated that

the aboriginal peoples were included in the multicultural system.

Senator Bosa: Honourable senators, if Senator Adams wants to look at clause 2, line 14 states:

but does not include

(c) any institution of the Council or Government of the Northwest Territories or the Yukon Territory, or

(d) any Indian band, band council or other body established to perform a governmental function in relation to an Indian band or other group of aboriginal people;—

Under "aboriginal people" lies the explanation that I gave before of the variety of groups that constitute the aboriginal peoples. So it does not include the aboriginal peoples or Indian bands in support.

Senator Barootes: Honourable senators, I think if I speak now I will be closing the debate.

Senator Frith: Not at third reading.

The Hon. the Speaker *pro tempore:* Not on third reading, senator.

Senator Barootes: Not on third reading? Thank you.

Honourable senators, I wish to take this opportunity to thank Senator Watt, Senator Bosa and others who have participated in this discussion.

All of us are aware of the sensitivities that have been expressed here today. Indeed, we should have as much empathy and sensitivity to that as possible. I believe that some provision has been made in the "whereas" clauses to recognize the rights of aboriginal peoples of Canada under the Constitution of Canada.

Second, as my friend Senator Bosa pointed out, in clause 2, paragraphs (c) and (d), mention of the special position of the aboriginal peoples has been made. Should more be necessary, I think this chamber would be pleased to give consideration to anything that has been advanced by any of the senators here today.

We have the opportunity to give our assent and thus place into law an act which recognizes the cultural and racial diversity in Canada.

I should like to pay special tribute to Senator Haidasz, the first Minister of State for Multiculturalism in Canada. Because of his pioneering work and the work of his successors up to the present minister, the Honourable Gerry Weiner, we are able today to recognize in our laws and our country that multiculturalism is a fundamental characteristic of our society.

What Parliament has done is to reach out to all Canadians, encouraging them to celebrate the richness of our history, the strength of our people and to grasp the opportunity of our future.

Last week I and others expressed the fact that this land of ours had been built by people from every part of the world and people of all origins. Canada is the land of opportunity, and I feel that we have achieved the promise, made to us earlier in this century by Sir Wilfrid Laurier, that this century belongs to Canada.

[Senator Adams.]

Now, honourable senators, we are at the door of a new era in our history. In the debate on second reading we also heard debate on Bill C-72. These two bills are interrelated, in that they both go to the heart of what it means to be a Canadian.

Bill C-72 reflects the continued evolution of that legislation. It will replace a law that has to some extent become outpaced and outdated. Bill C-93 on the other hand is a daring and pioneering effort. Together the two bills capture the contemporary Canadian mosaic. They speak of our future and of the two fundamental characteristics of a contemporary Canada.

The bill that we are considering—and I hope we will pass into law—is different from many of the bills that are brought to us. It speaks not of problems but of promise and of the future. It speaks of opportunity, and it reaches out to achieve our potential as a nation. This is a bill about our people, our history and our future.

I will close my remarks today by paying special tribute to the late Senator Paul Yuzyk. His vision of a Canada which embraced the contribution of Canadians of all origins, of all races and of all peoples was an inspiration. He blazed a trail that many have followed. He was a Canadian visionary.

Today we are doing this in his memory. His vision has been realized, and we all wish that he were here today to witness this bill being passed.

Honourable senators, I believe that today we are making history.

Motion agreed to and bill read third time and passed.

• (1530)

IMMIGRATION ACT, 1976

BILL TO AMEND—THIRD READING

Hon. Peter Bosa moved the third reading of Bill S-18, to amend the Immigration Act, 1976.

Motion agreed to and bill read third time and passed.

RAILWAY SAFETY BILL

REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Turner, seconded by the Honourable Senator Guay, P.C., for the adoption of the Eleventh Report of the Standing Senate Committee on Transport and Communications (Bill C-105, An Act to ensure the safe operation of railways and to amend certain other Acts in consequence thereof, with one amendment), presented in the Senate on 7th July, 1988.—(*Honourable Senator Stewart (Antigonish-Guysborough)*).

Hon. John B. Stewart: Honourable senators, Bill C-105, to ensure the safe operation of railways, is part of the package of measures brought forward in Parliament in this session dealing

with the deregulation or re-regulation of the transport industry in Canada. Honourable senators will remember that some of us were here dealing with those measures in July and August of 1987.

This is an important bill. It deals with the question of safety on the nation's railways. We in the Senate have been accused of dilly-dallying. I want to call the attention of honourable senators to the fact that the bill was introduced in the House of Commons with a royal recommendation on January 17 of this year and that it came to us here in the Senate on May 18—in other words, four months later. This is now July 19, so we have had the bill for two months. If we manage to get it through the Senate today or tomorrow we shall have done twice as well as they did in the other place—and we generally do far better than that.

The amendment made in the committee relates to those persons employed by the railways who are assigned to designated positions. By "designated positions" we are referring to running crews, dispatchers and others in positions critical to the operation of the railway systems. The amendment is in clause 35 of the bill. That clause, as the bill came to the Senate from the other place, dealt simply with new legal obligations of medical doctors. Clause 35 of the bill said that:

> (1) Where a physician or an optometrist believes, on reasonable grounds, that a patient holds a position in a railway company that is declared by regulations made under paragraph 18(1)(*b*) to be a position critical to safe railway operations (referred to in this section as a "designated position"), the physician or optometrist shall, if, in the physician's or optometrist's opinion, the patient has a condition that is likely to constitute a threat to safe railway operations,

send a notice to the chief medical officer of the railway company or to a physician or optometrist specified by the railway company. In other words, the bill in its original form would have required private physicians or optometrists to report the medical conditions of their patients if those conditions were thought to endanger safety.

At the same time, the bill made—and still makes—provision for regulations. In clause 18 the bill authorizes the Governor in Council to make regulations respecting various matters, insofar as they relate to safe railway operations, and in relation to persons employed in the designated positions. Under that general category, regulations could prescribe minimum medical standards—including audiometric and optometric standards—to be met by those persons. In other words, the bill would have imposed a statutory obligation on private physicians to report to the railway company the medical conditions of their patients if those conditions seemed to bear on safety, but the bill did not require that there would be regular examinations sponsored by the railway companies. It was this apparent imbalance that attracted the attention of some members of the committee.

We were told by representatives of the Canadian Medical Association that the association objected most emphatically to the requirement to breach confidentiality which was to be imposed upon private physicians by the terms of the bill. It would be hard to exaggerate the fervour with which the representatives of the Canadian Medical Association recorded their objection to this intrusion into the relationship of the private physician and his patient.

On the other hand, it was observed by the members of the committee that, although great concern was being expressed for safety, little provision was being made to assure safety, in that the bill was essentially relying on chance. It might be that an employee, engaged in a designated position, did have a dangerous medical condition, yet it might be that he would not go to his private physician and that consequently his medical condition would not be detected. In other words, discovery would, in a sense, be fortuitous. Those were two things that were wrong with the bill when it came to the committee. On the one hand it breached confidentiality; yet it made inadequate provision insofar as company-sponsored examinations were concerned.

In order to correct this imbalance, this excessive intrusion on confidentiality on the one hand with no provision in the bill for company-sponsored examinations, your committee is now recommending to the Senate that:

> A person who holds a postion in a railway company that is declared by regulations made under paragraph 18(1)(*b*) to be a position critical to safe railway operations (referred to in this section as a "designated position") shall undergo a company-sponsored medical examination (including audiometric and optometric examination) at least every twelve months.

Therefore, the new régime, assuming that the bill goes forward to Royal Assent in the form in which it has been reported out of the committee, is that persons occupying these designated positions will undergo company-sponsored medical examinations every 12 months. At the same time, if in the 12-month intervals they go to their private physician and the private physician discovers some medical circumstance which might bear on safety, the private physician will be required to report it. I have to say to honourable senators that this solution was not found acceptable by the representatives of the Canadian Medical Association; yet they allowed that it was, at least, a step in the right direction. The amendment works a considerable improvement on the bill. I believe all members of the committee would agree with me in that. Because clause 35 intrudes on confidentiality, it is a very important clause. We have made it somewhat less offensive and, at the same time, have provided greater assurance for safety in rail operations by making this amendment.

● (1540)

Motion agreed to and report adopted.

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

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

[*Translation*]

THE CONSTITUTION

CONSTITUTION AMENDMENT, 1987—MOTION TO TRANSMIT COPY OF SENATE RESOLUTION TO EACH PROVINCIAL LEGISLATIVE ASSEMBLY ADOPTED

On the Order:

Resuming the debate on the motion, as modified, of the Honourable Senator Watt, seconded by the Honourable Senator Marchand, P.C.:

That the Honourable the Speaker do transmit to the Legislative Assembly of each province a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, and urge that the provinces do likewise.—(*Honourable Senator Flynn, P.C.*).

Hon. Jacques Flynn: Honourable senators, I read last Thursday's *Debates of the Senate*. It seems the Liberal majority wanted the Senate to decide on the matter this week. I have no objection to disposing of this motion, although I would have preferred to drop the idea of two motions, the result of splitting the original motion. This is a new procedure I was not aware of. I would have preferred to see both motions die on the order paper. I think that is what they deserve.

First of all, I would like to say that from the procedural point of view I don't think it is up to the Speaker to transmit a copy of the Senate resolution to each of the legislative assemblies. I make a distinction between the Senate resolution and the resolution of the House of Commons. I think it should be up to the Clerk of the Senate to transmit the Senate's constitutional resolution to each of the legislative assemblies, since under our rules, the Clerk is responsible for transmitting messages. I assume that is what we want to transmit to the legislative assemblies.

Second, the motion wants the Speaker to urge the provinces to do likewise. I think such urgings are even less appropriate for the Speaker. The invitation is addressed to the legislative assemblies. Here the motion mentions inviting the provinces to do likewise. The provincial governments signed the accord referred to as Meech Lake. The legislative assemblies, according to our constitutional process, are supposed to ratify the accord so that, logically, the motion should say "That the Clerk of the Senate do transmit to the Legislative Assembly of each province a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on April 21, 1988, and indicate that the Senate invites the said legislative assemblies to do likewise." This is just a procedural aspect.

I would like to get back to what I would call the substantive issue raised by Senator Lang in this debate. It is in fact a useless repetition of the debate we had which led to the adoption on April 21 of the resolution and again on May 25 to the adoption of a resolution saying that the Senate sent the message to the House of Commons informing the House that the Senate had adopted the resolution on April 21. This motion is clearly repetitious and, as far as I am concerned, quite useless since the legislative assemblies are aware of the situation.

In any event, to get back to the substantive issue, how far has this constitutional process progressed? First of all, the resolution adopted by the House of Commons on October 23, and adopted again at the end of May—in the same terms if I am not mistaken—by the House of Commons, and adopted by eight legislative assemblies so far—I submit that if this resolution is adopted by the legislative assemblies of Manitoba and New Brunswick between now and 1990, the Governor General will then have the authority to proclaim a constitutional amendment according to the terms of the resolution adopted by the House of Commons.

In this respect, the Senate resolution will be of no use at all. I am convinced that Senate approval can be dispensed with if—and this applies to any motion from the Senate—the legislative assemblies of all ten provinces and the House of Commons adopt this resolution. The text of section 47 of the Constitution Act, 1982, is perfectly clear in this respect.

And what about the Senate resolution adopted, as I said earlier, on April 21, which was the subject of a message on May 25 and is the subject of Senator Watt's motion today? We are talking about a third debate. What about this resolution that does not use the same wording as the House of Commons resolution?

This resolution can become a valid resolution, if approved by the House of Commons and by all the legislatures. It would mean the House of Commons would have to change its position completely. It would mean that the eight legislative assemblies which have already expressed their approval would have to make an about-face and that the legislative assemblies of Manitoba and New Brunswick, which have yet to make their positions known, would approve the Senate's text rather than the text of the House of Commons.

So theoretically this is all quite possible. Of course, we can tell everybody to change their minds because we are right and they are wrong. Senator Watt can go ahead and claim that our position is the right one and that the other parties should change their position. However, I doubt very much, and I think that privately, he probably agrees, that adopting this resolution today will make any difference. It would be repetitious and it would be useless. If the House of Commons or the provincial legislatures want to change their minds, they can do so. They are aware of the divergent views of the Senate. The Senate stands alone, for the time being. If the Senate expects everybody else to change their minds, that's fine, if you believe that is possible. I don't. In fact, I was opposed to this resolution. I was opposed to the terms of the resolution adopted on April 21. I was opposed to the message that retransmitted the resolution to the House of Commons on May 25. And I am also opposed to the motion proposed by Senator Watt, which I feel is procedurally very defective.

• (1550)

[*English*]

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Watt, seconded by the Honourable Senator Marchand, P.C.:

> That the Honourable the Speaker do transmit to the Legislative Assembly of each province a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, and urge that the provinces do likewise.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, just for grammatical clarity, as pointed out by Senator Flynn, the motion should read, ". . . and that the legislatures of the provinces . . .". Senator Flynn proposed this change, but I am not asking him to move that amendment. Perhaps the mover would agree that it should be changed to read, ". . . that the legislatures of the provinces . . .", because that is what the Constitution provides.

Senator Flynn: It should read, ". . . and that the Senate invites the legislatures . . .".

Senator Frith: I appreciate the other points as well, but I think that one correction is rather obvious. It is the legislatures of the provinces that are partners in the amending formula, not the provinces.

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

Hon. Senators: Agreed.

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

Motion agreed to, on division.

THE CONSTITUTION

CONSTITUTION AMENDMENT, 1987—MOTION TO TRANSMIT COPY OF SENATE RESOLUTION TO YUKON AND NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLIES AND FOUR NATIONAL ABORIGINAL ORGANIZATIONS ADOPTED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Watt, seconded by the Honourable Senator Marchand, P.C.:
>
> That a copy of the Resolution to amend the Constitution of Canada, adopted by the Senate on 21st April, 1988, be transmitted by the Honourable the Speaker to the Legislative Assemblies of the Yukon and the Northwest Territories and to the four National Organizations representing the aboriginal peoples of Canada.—(*Honourable Senator Flynn, P.C.*).

Hon. Jacques Flynn: Honourable senators, my comments on the previous motion would also apply to this motion.

However, I do not see why Senator Watt specifically mentions four organizations since there must be hundreds of bands that would be interested in this matter.

Hon. Charlie Watt: Honourable senators, it is quite obvious why I mention four national organizations. It is because there are only four national organizations.

Motion agreed to, on division.

CHILD CARE

CONSIDERATION OF REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ON FINAL REPORT OF SPECIAL HOUSE OF COMMONS COMMITTEE ON CHILD CARE ENTITLED "SHARING THE RESPONSIBILITY"—DEBATE ADJOURNED

The Senate proceeded to consideration of the eighteenth report of the Standing Senate Committee on Social Affairs, Science and Technology respecting Child Care.

Hon. Mira Spivak: Honourable senators, with the permission of Senator Bonnell, I should like to make a few brief comments on the report on child care of the Standing Senate Committee on Social Affairs, Science and Technology.

At the outset I want to thank the committee for its efforts and, particularly,

[*Translation*]

I would like to pay tribute to the memory of our colleague, the Honourable Yvette Rousseau, who was a member of the Subcommittee on Child Care. At the time of her death, she was very interested in and very committed to our work.

[*English*]

The principal purpose of this report was to learn how federal proposals on child care, that is, the national strategy, could possibly affect the situation presently existing in the various provinces. To this end, the committee spoke to key informants and other witnesses in all the provinces and territories—persons involved on a hands-on, day-to-day basis with child care services; those involved in running child care centres; parents; advocates, researchers and so on. This was important since, for the first time, we are in the process of a federal-provincial effort to create a national child care system affecting over 60 per cent of women who have children under six and who are in the labour force.

The various provinces are at very different stages in the development of child care services, from British Columbia, which does not see itself as responsible for encouraging the development of services but whose chief concern is to subsidize fees for low-income parents, to Quebec, which has passed legislation to develop a range of services such as centre and family home day-care services; services in schools, such as lunch and after four care; and services for mothers who are not in the labour force.

The study found that, in terms of the national strategy, representatives from poorer provinces have some fears that, after the boost in child care spaces during the seven years projected for this initiative, they may find it difficult to finance improved facilities with 50-cent dollars. Those provinces with more developed systems, such as Ontario, are afraid that their needs will mean that expenditures will hit a ceiling before seven years have passed.

The study found in all provinces an absence of adequate or even enough planning services—that is, in practical terms, child care offices; consultants; and data collection. Even the most basic question of how many children of what family income receive what subsidies cannot be answered at this time, except for Ontario. Only estimates of need, based on numbers of children with parents working, training or studying, are used. There are inadequate measures and personnel to enforce compliance with standards.

In terms of what have become the customary benchmarks of child care services—that is, availability; the number of spaces; quality and affordability; and whether parents can afford to pay for services—in all provinces, no matter what their policies, there are deficiencies in all three of these areas.

There is a serious absence of services for infants, a serious shortage of child care services for non-urban areas, where demand for child care may be seasonal or driven by different schedules from those in cities—whether on the prairies or in Newfoundland fishing villages—and a shortage of flexible services to meet parents' needs.

● (1600)

As to quality, problems exist in terms of varying requirements for qualifications of child care workers, low salaries, monitoring and enforcement of regulations, et cetera. Different provinces subsidize families at widely—and wildly—varying income levels so that in some provinces only about 4 per cent of all pre-school children with working parents were eligible for full subsidies in 1987. In comparison, 23 per cent of those children in Saskatchewan and 38 per cent in Ontario were eligible. Moreover, provincial subsidy levels are far below federal levels.

Of course, not all parents eligible for subsidies actually receive them. For example, on July 12 the *Globe and Mail* had a story claiming that more than 4,000 families in Toronto who are eligible for subsidies are on the subsidy waiting list.

All of this points to a desire and a hope, on the part of those whom the study saw, for a very strong federal role; for federal direction to provide, nationally, a service for all Canadian children that is of reasonable quality to all who want it at a cost they can afford.

The federal government does not have the power to stipulate requirements that are so specific that they amount to interference with the administration of provincial programs, but the history of the development of Canada's health care system yields valuable lessons for the evolution of a child care system. In that case financial assistance was offered to the provinces on conditions, and it remains to be seen what conditions will be incorporated into federal-provincial agreements in forthcoming legislation.

The study raises a number of issues that are important to the current federal-provincial process—questions relating to funding; standards; salaries and training of care givers; monitoring and enforcement; the promotion of development of the non-profit sector; parental involvement and support for parents who spend significant amounts of time out of the labour force, that is, those who care for children at home.

I recommend this study to all senators interested in the improvement of child care services—and I know this is a majority—as a useful portrait and analysis of the Canadian situation, and one that I hope will be useful in the future examination of federal child care legislation.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, since this order stood in the name of Senator Bonnell I suggest that it again stand in his name.

The Hon. the Acting Speaker: Honourable senators, is it agreed that the order stand in the name of the Honourable Senator Bonnell?

Hon. Senators: Agreed.

On motion of Senator Doody, for Senator Bonnell, debate adjourned.

GUYANA, TRINIDAD AND TOBAGO

GOODWILL VISIT BY CANADIAN PARLIAMENTARY DELEGATION

Hon. Peter Bosa rose pursuant to notice of Wednesday, July 6, 1988:

> That he will call the attention of the Senate to a goodwill visit by a Canadian Parliamentary delegation to Guyana and Trinidad and Tobago, which took place from April 24 to 28, 1988.

He said: Honourable senators, I was pleased to have been asked to be part of a parliamentary delegation on a goodwill visit to Guyana, Trinidad and Tobago. Other members of the delegation were Senator Robert Muir and Mr. Robert Pennock, M.P., Etobicoke North. Accompanying the delegation was Mr. D.G. Longmuir, Director, Carribean and Central America Relations Division, from the Department of External Affairs. The purpose of the visit was twofold: to show the governments of both countries Canada's keen interest in maintaining and promoting good and fruitful relations with them and to provide Canadian parliamentarians with the opportunity to see firsthand our foreign policy in that region of the world.

Guyana is located on the northeast corner of South America and is bordered by Surinam to the east, Venezuela to the west, and Brazil to the south. Guyana has an area of 214,000 square kilometres. The population is estimated at 790,000 of which approximately 72,000 live in its capital, Georgetown.

Initially colonized by the Netherlands, Guyana came under British rule in 1803. The majority of the population are descendants of people from India, China and Portugal, imported labourers and black African slaves. Political radicalism and the threat of Marxism delayed independence until 1966, when Mr. Forbes Burnham became the country's first Prime Minister.

Though Guyana initially had a Westminster-style government, the country became a republic in 1970 and, subsequently, the legislative body became a unicameral national assembly composed of 65 members.

While in power Burnham pursued a policy of cooperative socialism that saw the nationalization of the sugar and bauxite industries and deterioration in relations with the west in favour of closer ties with other socialist countries.

On his death in 1985, Burnham was replaced by Desmond Hoyte, his Vice-President. Hoyte has pursued reform policies which seek to roll back cooperative socialism. Though much remains to be done, the human rights situation has improved and better relations with the west are being pursued. Guyana also has some very serious economic difficulties. However, when it comes to trade, Guyana has a favourable balance with Canada. Canada's exports to Guyana totalled $5.2 million in goods and services in 1987, consisting mainly of sawmill equipment, milk powder and paper chemicals—

Senator Doody: And rum?

Senator Bosa: Yes—while imports from Guyana amounted to $35.5 million, and consisted primarily of bauxite ore, molasses, raw sugar and the liquid that the honourable gentleman opposite likes so much, rum.

Senator Doody: It is very well thought of in the maritimes.

Senator Frith: Highly spoken of!

Senator Bosa: Guyana has traditionally been a major recipient of Canadian development assistance, with Canadian aid generally directed at improvements in fisheries, forestry, air transportation, water supply and electric power. Total direct aid disbursements for the 1982-87 period amounted to $11.9 million.

After a review of Canada's relations with Guyana in 1984, it was determined that, while Guyana would remain a beneficiary as a country within the framework of government policy towards the Caribbean Commonwealth, aid disbursements would remain modest until there was evidence of improvement in Guyanese economic management and an IMF agreement was in place.

No members of the delegation had been to Guyana before, and, notwithstanding the very short time that we were there, we were able to meet a cross-section of Guyanese society, including government officials, members of the business and professional communities as well as officials and volunteers of the facilities of some non-government institutions such as the Red Cross, the Home Ownership Program of the St. Francis Human Development Association, and the kitchen facilities of the Beacon Foundation.

Throughout our visit we were very ably assisted by our High Commissioner, Mr. William E. Sinclair, and his staff. Mrs. Sinclair, a very gracious lady, hosted two receptions at the commissioner's residence, thus enabling the delegates to meet many more Guyanese in an informal setting.

• (1610)

In Georgetown we stayed at the Pegasus Hotel. Just as we were checking in, there was a Soviet parliamentary delegation preparing to leave for the airport. We later learned that they had preceded us in our visit to Trinidad and Tobago as well, a matter that was noted by the media. Our first engagement was a visit to a gold mine some 200 kilometres inland at Omai, the Golden Star Resources and Placer Dome Mining Operations. We were taken to Omai by helicopter, which gave us an opportunity to view Guyana's vast forests. At the mine we were doused with mosquito repellant as a precaution against the very real danger of contracting malaria. While the tour of the site proved interesting, physically it proved to be much more strenuous than anticipated. It involved standing in the back of a truck and being jarred and lurched over very rough, forested terrain. It was hot and dry. Mr. R. Garwood, the exploration manager, briefed the delegation on the history of the mining at Omai. While walking to those areas that we visited on foot I asked Mr. Garwood if there was any danger of reptiles in the area, to which he replied, "Yes, that is why I am walking with my head down."

On our return to Georgetown we stopped at Kaow Island for a tour of a CIDA development aid project, known as the John Willems Timber and Trading Co. Ltd.

Other visits included a meeting with Dr. Cecil Rajana, head of the Department of International Economic Cooperation, Office of the President, for an overview of Canada's bilateral aid program. Dr. Rajana stated that CIDA programs are well focused and well targeted. He mentioned, among others, the forestry projects, which are export oriented. He also said that the fisheries projects were well thought out, resulting in increased rural incomes as well as cheap protein for the population. When asked about any problems related to CIDA projects, Dr. Rajana referred to the extremely lengthy process and the long and frustrating cycle for completion procedures, a cycle that often takes four to five years from the initial discussions to the beginning of a project.

The delegation then called on His Worship Robert Williams, Mayor of Georgetown. During this encounter reference was made to the fact that Ottawa and Georgetown and two ecclesiastical institutions, St George's Cathedral and Christ Church Cathedral, are twinned. The mayor expressed hope that that twinning association of the two cities would become more active. Mr. Williams also made reference to the modern garbage trucks given to the city by CIDA; they were much appreciated.

We visited a fruit tree crop demonstration unit, another CIDA development project, on our way to Timheri International Airport. Guyana at the time was experiencing a severe water shortage due to a prolonged period of drought. Suddenly, there was a downpour—one of the heaviest rainfalls I have ever seen. We were pleased, even though we got wet, and I am sure the Guyanese people were pleased at this much-needed rain.

In conclusion, the delegation was well received and government officials would appreciate more such visits from Canada. The delegation certainly left with greater awareness of Guyana's modest resources, overwhelming problems and the efforts the people of that country are making to resolve them.

After a short flight, we landed at Port of Spain, the capital of Trinidad and Tobago. Trinidad and Tobago has a popula-

tion of approximately 1.2 million of which 60,000 reside in Port of Spain. The islands of Trinidad and Tobago lie northeast of Venezuela. They were discovered by Columbus in 1498.

Originally settled by the Spanish, the islands were captured by England in 1797 and formally became a colony in 1802. Trinidad and Tobago became a member of the West Indies Federation in 1958 and was granted full independence in 1962, after the dissolution of the federation. In 1976 Trinidad became a republic. Forty per cent of the population is composed of descendants of African slaves and nearly 50 per cent are descendants of Indian and Chinese labourers brought to work on the islands after the abolition of slavery.

Trinidad and Tobago, because of its relatively high national income and status as a regional aid donor, is no longer being considered for traditional CIDA aid programming. No new direct bilateral projects are under development or contemplated, but Trinidad still benefits from mission administered funds, special programs and industrial cooperation projects and some bilaterally-funded regional projects. Modest disbursement levels will be maintained through these channels.

One bilateral project is ongoing. It is the Piarco International Airport Project. Less than half of the original $10 million approved loan has been spent, after long delays, and there is currently no agreement with Trinidad as to how the remainder is to be used.

There was very little non-government organization involvement in Trinidad in 1986-87. However, CIDA's disbursements totalled $64,600. Major activities included a Special Education Project and a Faculty of Education Project, both with the University of Manitoba. Trinidad's political life had been dominated largely by the black peoples' National Movement since 1956. In the 1986 elections Robinson's National Alliance for Reconstruction, a multiracial coalition of opposition groups, won a resounding victory, taking 33 of 36 seats in the House of Representatives. The defeat of the once dominant People's National Movement signalled, in the eyes of National Alliance for Reconstruction supporters, a victory for multiracial democracy.

The economy of Trinidad and Tobago is dominated by the petroleum sector, and the country enjoyed boom years between 1974 and 1982 as the price of oil rose. The sudden drop in world oil prices has seriously affected Trinidad's economy and the GDP has been declining since 1984. Unemployment is high at around 17 per cent and is expected to rise to 25 per cent by 1990. The government is faced with budget deficits, balance of payments problems, shrinking foreign exchange supplies and a mounting external debt burden. The government recently brought in tough budget measures to bring the deficit under control. It announced its intention to go to the International Monetary Fund for compensatory financing. The government has also reaffirmed its determination to set off unproductive state enterprises.

Canadian exports to Trinidad in 1987 totalled $69.7 million and consisted primarily of foodstuffs, pharmaceuticals and telecommunications equipment. Imports from Trinidad in 1987 totalled $36.9 million. Approximately 25,000 Canadians visit Trinidad and Tobago annually.

We were received at Port of Spain by Canada's High Commissioner, James C. Best.

Senator Frith: He is known as Cal Best, is he not?

Senator Bosa: Yes, but officially he is known as James C. Best.

Senator MacDonald: Yes, he is a famous Nova Scotian—Carrie Best's son.

Senator Bosa: Both of you are quite correct. Mr. Best accompanied the delegation to a number of meetings with government officials and hosted two receptions at his residence, where delegates were able to meet a number of parliamentarians, government officials, academics and professional people.

Trinidad and Tobago relations are friendly and far-reaching. The delegation paid courtesy calls to the Minister of External Affairs and International Trade, Dr. Sahadeo Basdeo, who has strong personal links to Canada. During our meeting we discussed trade, education, immigration and the battle against drugs. Dr. Basdeo expressed concern at the high fees that Trinidadian students have to pay for admission to Canadian learning institutions. Honourable senators, this is a matter for the Canadian government, and it should review this aspect of our relations with that island, because Trinidadians are very keen on getting their education in Canada.

Senator Doody: Bring in a private member's bill!

Senator Bosa: This is a government matter. I doubt whether, if I brought in a private member's bill, this government would be much influenced.

Senator Frith: You just got one of your own bills passed today!

• (1620)

Senator Bosa: Speaking on the need for cooperation in the fight against drug trafficking Dr. Basdeo said there was need to set up an infrastructure for cooperation between the two countries. The minister asked Canadians to understand the recent problems relating to Ghanaians with forged Trinidad and Tobago passports entering Canada. He said that that should not be a reason for restrictions on citizens of Trinidad and Tobago entering Canada. The government is doing all it can to ensure that its citizens are fully apprised of regulations governing entry into Canada.

The delegation toured the Coast Guard facilities at Chaguaramas, which Canada has been providing technical assistance to for several years. It paid courtesy calls on Opposition Leader Patrick Manning as well as House of Representatives Speaker Nizam Mohammed and Acting Senate President Leonard Bradshaw. The delegation also visited the St. Augustine Campus of the University of the West Indies, after which we flew to Tobago for a visit to Dr. Jefferson, Chairman of the House of Assembly, and a Canada fund-sponsored cooperative at Belle Garden.

In conclusion, I can state on behalf of my colleagues that the goodwill visit accomplished the two objectives that we set out to attain: to impress on the Governments of Guyana and of Trinidad and Tobago Canada's degree of interest in the region and the broadening of our understanding of Canada's foreign policy with those countries.

I should like to say a special word of appreciation concerning our High Commissioners, Messrs. William E. Sinclair and James C. Best, who made our visits so informative and interesting, and Mr. G.D. Longmuir, who ably briefed and assisted us throughout our visit.

The Hon. the Speaker *pro tempore:* Honourable senators, if no other senator wishes to speak, this inquiry is considered debated.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, July 20, 1988

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

Prayers

CANADIAN EXPLORATION INCENTIVE PROGRAM BILL

MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons to acquaint the Senate that they had agreed, without further amendments, to the amendments made by the Senate to Bill C-137, to provide for incentives to assist in financing exploration for mineral resources and hydrocarbons in Canada and to amend the Canadian Exploration and Development Incentive Program Act.

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

MESSAGE FROM COMMONS—BILL ATTACHED

The Hon. the Speaker *pro tempore:* Honourable senators, yesterday I reported a message from the House of Commons concerning Bill C-103. Only the message was received, and not the bill itself. Today the bill has been returned to the Senate. When considering the message, I trust honourable senators will take this into account.

Hon. Peter Bosa: Honourable senators, in view of the fact that the Leader of the Opposition is not here at the moment, could we delay this matter so that he will have an opportunity to respond later?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if there were anything controversial about this matter, I would certainly make that suggestion myself. What happened yesterday was that a message came from the House of Commons informing the Senate that they did not agree with the text of the message made by the Senate to Bill C-103. They neglected to attach the bill to that message. Today they have sent the bill, and now His Honour is going to attach the bill to the message. The Leader of the Opposition can deal with both when he resumes the debate that he adjourned yesterday.

Hon. Charles McElman: Could the Deputy Leader of the Government in the Senate inform us whether it could be considered an affront to the Senate or an abuse of the Senate's privileges that the House of Commons did not send the bill back to us?

Senator Doody: It could be, or it could even be a reflection on the efficiency of the other place.

Hon. Gildas L. Molgat: Would it be appropriate for this chamber to comment on that, just as the other chamber feels it appropriate to comment on this one?

Senator Doody: I find it interesting that the honourable senator is asking me what would be appropriate when he knows where the power lies.

ROYAL ASSENT BILL

FIRST READING

Hon. C. William Doody (Deputy Leader of the Government), for Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations), presented Bill S-19, respecting the declaration of Royal Assent by the Governor General in the Queen's name to bills passed by the houses of Parliament.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Friday next, July 22, 1988.

CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION BILL

REPORT OF COMMITTEE

Hon. Earl A. Hastings, Chairman of the Standing Senate Committee on Energy and Natural Resources, presented the following report:

Wednesday, July 20, 1988

The Standing Senate Committee on Energy and Natural Resources has the honour to present its

NINTH REPORT

Your Committee, to which was referred the Bill C-75, An Act to implement an agreement between the Government of Canada and the Government of Nova Scotia on offshore petroleum resource management and revenue sharing and to make related and consequential amendments, has, in obedience to the Order of Reference of Wednesday, July 13, 1988, examined the said Bill and has agreed to report the same without amendment.

Respectfully submitted,

EARL A. HASTINGS
Chairman

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

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

IMMIGRATION ACT, 1976

BILL TO AMEND—REVISED MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Joan Neiman: Honourable senators, I have the honour to present the twenty-fifth report of the Standing Senate Committee on Legal and Constitutional Affairs respecting the motion of the Honourable Senator Nurgitz, dated June 28, 1988, relating to certain amendments to Bill C-55, to amend the Immigration Act, 1976 and to amend other acts in consequence thereof.

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

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

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 4079.*)

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

On motion of Senator Neiman, with leave of the Senate and notwithstanding rule 45(1)(*f*), report placed on the Orders of the Day for consideration later this day.

IMMIGRATION ACT, 1976

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—REPORT OF COMMITTEE PRESENTED

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Wednesday, July 20, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-SIXTH REPORT

Your Committee, to which was referred the motion of the Honourable Senator Nurgitz, dated July 13, 1988 relating to certain amendments to Bill C-84, An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof, has, in obedience to the Order of Reference of Thursday, July 14, 1988, examined the said motion and now reports as follows:

Your Committee recommends that the Senate concur in the amendments made by the House of Commons to its amendment 3 and earlier amendment 5(*a*) to the Bill C-84, An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof;

That the Senate do not insist on its amendments 2(*a*) and (*b*) and earlier amendments 5(*b*) and (*c*); and

That the Senate agree to the further amendment made by that House to clause 8.

The Committee notes that one of the conditions which circumscribes the power of the Minister to direct a ship not to enter Canada's waters is that "the country (of embarkation) would allow the passengers to return to that country . . . ." This phrasing is very similar to the safe country wording in Bill C-55 about which the Committee had serious reservations. As we stated in our twenty-fifth report, we were concerned that the words "allowed to return" did not afford sufficient protection for claimants to ensure that they did not go "into orbit."

In connection with Bill C-55, our concerns were addressed by the commitment of the Minister to amend the law at an early date and, if difficulties arise in doing so, to instruct immigration officials to interpret the law so that no claimant is put at risk in the interim period. Because similar wording is found in Bill C-84, the Committee expects that the same action will be taken with respect to this Bill as well.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

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

On motion of Senator Neiman, with leave of the Senate and notwithstanding rule 45(1)(*f*), report placed on the Orders of the Day for consideration later this day.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to inform the Senate that Senator Murray is absent today. I will be pleased to take as notice any questions honourable senators may wish to ask.

The Hon. the Speaker *pro tempore:* Delayed answers.

Hon. Charles McElman: Not so fast, Mr. Speaker. We must not rush things in this place; it is not our habit.

Senator Hastings: Let us do some dilly-dallying!

Senator McElman: Let us dilly-dally a bit.

Senator Flynn: You do that very well.

Senator McElman: Yes, I have had lots of lessons.

CANADIAN BROADCASTING CORPORATION

BOARD OF DIRECTORS—INADEQUACY OF REGIONAL REPRESENTATION

Hon. Charles McElman: Honourable senators, I have a question for the Deputy Leader of the Government in the Senate. I have a copy of the 1987-88 annual report of the Canadian Broadcasting Corporation.

Just as a footnote, for some 20 years successive governments in New Brunswick—going back to the Robichaud years, Mr. Hatfield's tenancy in the premiership, and now with the Honourable Mr. McKenna—have made appeals to the CBC asking that a grave shortcoming of the CBC be corrected, namely, that New Brunswick is the only province in Canada that does not have a full-schedule CBC television station.

Senator Barootes: What?

Senator McElman: The result of it is that, through an agreement between CBC and a privately owned station, we get quite a large part of CBC programming but we do not get the whole of it. This has been considered a serious situation not only by governments of New Brunswick but also by the people of New Brunswick.

I think I found perhaps one of the reasons of recent date. Someone strangely found two channels in the atmosphere when we had been told for years that there were no channels available. Because of the dilly-dallying of the CBC, the CRTC has ruled that those channels be turned over to the private sector. So we are in trouble again.

I have looked at the board of directors listed in this latest annual report for the CBC. Including the president, Mr. Juneau, there are 15 directors. Of those, five are for Ontario; seven are for Quebec; one is for Alberta; one is for Nova Scotia; one is for Manitoba; and there are no directors of the CBC, according to this report, for British Columbia, Saskatchewan, New Brunswick, Prince Edward Island and Newfoundland.

I consider this an affront to the Atlantic provinces to begin with—the honourable the deputy leader, your province and mine, as well as Prince Edward Island.

Could the Leader of the Government in the Senate not urge upon his colleagues that, when directors are being appointed over the next period of time, these shortcomings be corrected?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I shall certainly make representations.

[Senator McElman.]

• (1410)

PENITENTIARIES

ENFRANCHISEMENT OF INMATES IN FEDERAL ELECTIONS

Hon. Earl A. Hastings: Honourable senators, the Deputy Leader of the Government in the Senate will have noticed that, by a decision of the Supreme Court of Ontario yesterday, inmates in provincial institutions in Ontario have been granted the vote in a provincial election.

I wonder if the Deputy Leader of the Government would make representations to his colleague, the Minister of Justice, to withdraw his opposition to the application of Richard Sauvé for franchisement in federal elections in order that those 12,500 Liberal votes in federal institutions may be enumerated in the coming election.

Senator Flynn: Liberal votes?

Hon. C. William Doody (Deputy Leader of the Government): I shall certainly pass that information along to the appropriate minister and ask him for his reaction.

Senator Flynn: How do you know that all of the prisoners are Liberals?

RAILWAY SAFETY BILL

THIRD READING

Hon. Mira Spivak moved the third reading of Bill C-105, to ensure the safe operation of railways and to amend certain other acts in consequence thereof.

Motion agreed to and bill read third time and passed.

IMMIGRATION ACT, 1976

BILL TO AMEND—REVISED MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the twenty-fifth report of the Standing Senate Committee on Legal and Constitutional Affairs (motion respecting Bill C-55) presented earlier this day.

Hon. Joan Neiman moved the adoption of the report.

She said: Honourable senators, my remarks with respect to the Legal and Constitutional Affairs Committee reports on both Bill C-55 and Bill C-84 will be brief, since other members of the committee will be commenting in more detail during this debate.

Bill C-55, which was given first reading in the other place on May 5, 1987, is the government's measured response and purported solution to the malfunctions, misfunctions and undoubtedly serious problems in the present refugee determination system, which, I remind you, is a very small proportion

of Canada's total immigration program. The bill is a radical departure, both in philosophy and implementation, from the recommendations contained in three previous studies on refugee determination commissioned by the previous government and then this government. I would remind you also that the last of those reports, which was entitled: "Refugee Determination in Canada" by Rabbi Gunther Plaut, was studied carefully by the House of Commons Standing Committee on Labour, Employment and Immigration. That committee agreed almost unanimously with the report, making only a few minor changes.

For reasons of its own, the government chose to ignore the recommendations of that committee and to take quite a different approach—one that caused reactions of disappointment, dismay and vehement opposition from every witness the Senate committee heard, with the exception, of course, of government spokespeople. I have to admit that some of the members of our committee, including myself, felt frustrated and inadequate from time to time as we tried to understand what the effect and implementation of its proposed procedures would mean.

In the end, because the committee had spent so much time on Bill C-84, we decided to focus on those provisions in Bill C-55 which appeared most obviously to affront the spirit, if not the letter, of our international commitments regarding the treatment of refugees and also of our own Charter of Rights and Freedoms. The committee's proposed amendments to the bill were, I believe, modest and designed to obviate the possibility of immediate court challenges to the present provisions—a certain eventuality which would clog the system once more, causing the kinds of delay that, as the government has argued quite rightly, comprise a serious problem in the present system.

The reaction to the committee's amendments among those assisting refugees was disappointment that we had not gone far enough, had not been tough enough. We were urged constantly—and still are, as recently as this morning—to stand firm.

Being conscious of their continuing concern, I think it fair to say that members of the committee were even more disappointed by the government's response to its recommendations.

One of the most serious concerns engendered by the bill was the possibility that refugee claimants could be sent back to a supposedly safe country, where, in turn, they might be shipped out to another country where they could be in jeopardy or face possible death. The present formulation in Bill C-55 uses the word "returned". Let me read a comment in explanation contained in a letter from the spokesperson for refugee affairs at Amnesty International and addressed to me as chairman of the committee. This same argument was made to the committee by several other people representing refugee assistance groups. The letter reads in part:

> The word "returned" causes considerable difficulty. In Europe, many Governments have forcibly removed refugee claimants to a safe third country on the basis of legislative enactments using the word "returned" and the national Courts of many European countries have held that a refugee has been "returned" if he or she has entered the territory of a third country even if not legally admitted. What usually happens is that a refugee claimant being "returned" to a safe third country is usually kept in a transit lounge until forcibly placed on an airline bound for some other country. In essence, the refugee claimant is put in orbit. Therefore, the legislative word "returned" has legalized the "refugee in orbit" syndrome in Europe. It is our view that much stronger wording than the word "returned" will be necessary in order to prevent refugees from being put into orbit.

It seems that the minister did not fully understand the impact of that word "returned", as did not, I confess, the members of our committee.

● (1420)

We sought to correct the problem, as we saw it, by presenting our own amendments to the provision. In her response to the Senate's proposed amendment—and that is one of the amendments which were rejected—the minister, nevertheless, in referring to the provision in the other place on June 3 stated:

> . . . this provision will not be used to put people in orbit between countries, as we want assurances that the people we send to third countries will be accepted there or will have access to that country's refugee determination system.

As the committee pointed out, that is not what the present Bill C-55 states. Regrettably, the provision in the present version, which the minister has again asked us to accept, does not provide the assurances on which the minister said she would insist. As I have pointed out in our report, she has now agreed to rectify that provision as soon as possible in future legislation, because, even more regrettably, the government did not accept one of the amendments proposed by the opposition parties that would have addressed the problem.

It was for that reason that the committee asked for and received a letter from the minister, addressed to the Leader of the Government in the Senate, which forms part of its report. That letter contains what the committee hopes and believes to be the minister's commitment that that particular provision in the legislation will be amended to conform to the statement which she made in the other place and which I quoted. Furthermore, and most importantly, until that amendment can be enacted into law, her officials will be instructed to deal with each refugee claimant in the spirit of that assurance so as to, in the words of her letter, ". . . ensure that no claimant be at risk in the interim." That certainly relieved many of the concerns of the committee and induced us to make the report in the form we have today.

Bill C-84, as honourable senators will recall, is the so-called "emergency legislation" in response to a couple of incidents that occurred last summer. Unfortunately, the committee felt compelled to deal with that bill first because of its supposedly urgent nature. It had to hear at least a fair representation from across Canada of the innumerable people who wanted to

appear and comment not only on its perceived objectionable provisions but also on those in Bill C-55.

The most notorious provisions of Bill C-84 were those regarding the turning around of ships at sea. You know the history of the Senate's proposals with respect both to those provisions and to others which the committee felt required amendment. We made a few modest gains on our first round and now, finally, the government has, itself, amended the bill so that all the provisions concerning the turning around of ships containing possible refugees will be nullified within six months of the coming into effect of Bill C-55.

The committee is grateful that the minister has reacted to the very sensible and humane arguments made against those provisions by so many people.

Finally, Bill C-84 contains the same objectionable phrase regarding refugees arriving on ships being returned to the country from which they embarked. As the committee stated in its report, it assumes that the assurances given by the minister in her letter, reproduced in the committee report on Bill C-55, will apply equally to any action taken under the provisions of Bill C-84.

I should just like to conclude by paying a special tribute to the patience and endurance of the members of the Legal and Constitutional Affairs Committee. I had the unfailing cooperation of too many members to mention any by name. I believe we achieved a few measures in our study of these bills. I wish we had been able to do more, but we must be content with what we have accomplished so far.

Hon. Jerahmiel S. Grafstein: Honourable senators, the distinguished American historian, Barbara Tuchman, pointed out in the epilogue to her most perceptive analysis of history, "The March of Folly", that the most important test of government is the ability to admit error. How and when to admit error. How and when to change course. To wrest, publicly, such admissions and changes in course from government, honourable senators, is precisely the role envisaged for the Senate. When the Fathers of Confederation crafted the theory of this chamber, the theory of "sober second thought", it was founded on the notion that in the heat of the political moment politicians rarely find the time to learn from history, rarely take the time to learn from experience.

> "If men could learn from history, what lessons it might teach us!"

Thus wrote the great poet laureate, Samuel Taylor Coleridge. Then Coleridge went on to lament:

> "But passion and party blind our eyes, and the light which experience gives is a lantern on the stern, which shines only on the waves behind us."

Machiavelli, the founder of the modern school of political science, taught that a prince, like a government, ought always to be a great questioner and a patient listener of the truth about those things of which he has inquired. The prince should be angry if he finds that anyone has scruples about telling him the truth. Barbara Tuchman, after essaying these ideas, concluded that good governments, above all, need good questioners.

So, honourable senators, is that not the best definition of our duty: to ask good questions; to ask good questions when the heat of politics distorts reason and ignites public passions?

Here the lessons of Bill C-55 and Bill C-84 are most instructive. Bill C-84 and Bill C-55, as we know, were bills to amend the process and the penalties in our immigration and criminal laws respecting refugees. Honourable senators will recall the perceived mood of the country last August. Just a year ago the House of Commons was to be recalled to legislate a solution to what we were told was a pressing matter, "a national emergency," triggered by the sudden landing of 173 Tamils and one other off the coast of Nova Scotia last July. You will all recall the big headlines. The headlines and TV whipped up public opinion and inflamed public passions.

• (1430)

The government moved. The government reacted. The government moved swiftly to introduce new draconian penalties against refugees and their facilitators.

Bill C-84, this draconian measure, came to the Senate after speedy passage in the Commons on September 15, 1987. We debated it briefly and then referred it to the Senate Committee on Legal and Constitutional Affairs. From September 16 to December 15, for three months, the Senate committee held 26 hearings and reviewed 562 briefs. The first Senate report recommended 17 amendments. That report passed without division, reflecting the unanimous view of the groups and citizens across Canada. Because there was an overwhelming consensus on all sides of the Senate for change, the Senate's report reflected that change.

The Commons referred the legislation back on February 4 with a message accepting seven amendments, rejecting ten amendments and introducing two new amendments. That was debated for several days in February, was then referred again to the Senate committee, which held eight meetings, and was finally amended again in a report on March 3, this time with four amendments. This "emergency" legislation then languished in the House of Commons for three and one-half months before being referred back to the Senate. A Commons' message was received by the Senate on July 12 with two amendments accepted and two rejected. This is the eleventh day that this matter has been before the Senate, and it has been the subject matter of over 35 Senate committee hearings.

This, honourable senators, is the mathematics of parliamentary public discourse. This is the mathematics not of delay, not of obstruction, but of genuine, thoughtful legislative process of the law. Of the total of 20 amendments to Bill C-84 proposed by the Senate, eight were accepted and two new amendments were proposed by the government itself.

When we turn to Bill C-55, the pattern is similar. Bill C-55 was introduced in the Senate on October 22 and was debated for five days. It was then referred on November 3 to the Standing Senate Committee on Legal and Constitutional Affairs. The committee held 36 hearings, received over 440

briefs, travelled throughout most of the country and returned with a report, which, in principle, was concurred in by all members of the Senate, even though divided, because there was an overwhelming consensus for change.

Finally, we referred our report to the House of Commons on May 17. A message was then received back in the Senate on June 28 from the House of Commons and was debated briefly in the Senate on July 14. Again, in aggregate, this bill took nine days in the Senate, 37 committee meetings, 13 amendments—four accepted, three others accepted in part, six rejected and four new amendments proposed by government itself.

When we aggregate these numbers for both of these bills, which were companion measures, the time spent indicates the difficulty and the complexity of the issues raised by Bill C-84 and Bill C-55. This was recognized by all honourable senators. This was recognized and accepted by Senate members from the government side, and finally this was accepted by the government and the Commons. In total, 33 amendments were proposed, 11 accepted, three accepted in part, six new amendments were introduced by the government and 18 rejected in these two companion bills. Equally important, as the chairman of the committee has pointed out, in addition, two written undertakings were given by the minister, dealing with future amendments for "safe return" and just compensation for board members who might be displaced by the new scheme. So, over 20 days in this place and over 63 days in committee was the total time taken to study these measures.

But what happened? Over the past 11 months the parliamentary dialogue gave both the Canadian public and the government an opportunity to reconsider, and when the heat of the moment had cooled the public and the government gained a deeper understanding of the contours of this complex legislation. In the course of those 11 months public discourse changed. The media coverage changed. The media became more thoughtful. The media began to cover the substance of these complex measures.

The lengthy public discourse actually transformed the thinking of the media, the government, the Commons and the bureaucracy. They all became more sensitive to Charter concerns. Honourable senators, you will recall that there were compelling constitutional problems hidden within the bowels of this legislation centred on the conformity to the Charter of Rights, centred on the conformity to Canadian obligations under our international refugee treaties and, of course, on the reformation of the public administration dealing with the refugee processes to ensure fairness and efficiency. The government first proposed, theatrically, to "turn back the boats". This clashed with established Canadian legal principles and Canadian humanitarian principles. It appealed to the darker voices in this country. We are pleased that those darker voices were not heeded.

Let us be candid. Let us be honest. Part of the difficulty, part of the delay, honourable senators, lies in the competing voices and visions for the future of our country. We hear these contested voices and we see these darker visions because they are reflected in the Commons. One set of voices and visions argues, "We are okay, Jack! Refugees go away! Leave us alone in our stable state." These voices demand we stop the world and lift the drawbridges. These voices demand that we should be much more restrictive in whom we let into our country and how we do so. The refugee process, they say, should be long and difficult. Otherwise, these dark voices predict, our Canadian way of life will be undermined. Social unrest will result. Canada's "peace, order and good government" will be displaced by a polyglot injection of refugees, particularly those who are non-European or non-Caucasian in origin, who do not hold so-called "finer values" and who will lower our fine Canadian standards of civic behaviour. A few are just enough, they say. How they forget the lessons of our history. How these voices forget their own roots. How they forget their own family histories. For are we not all immigrants? Are we not all refugees? Are we not the sons and daughters of immigrants and refugees, in this chamber and in the chamber on the other side?

There is, honourable senators, another set of voices, and they tell us that Canada has yet to achieve its destiny, has yet to achieve its greatness, occupying, as it does, the greatest land mass in the world. Unless we match our land mass with massive diversity and innovative skills of new people, we will fall behind, they say. Our standard of living will deteriorate if Canada's growth falters. Our birth rates are static or falling. Our population is aging. The dynamics of growth from youth and diversity are in jeopardy. Canada could open its doors. Canada could easily double its population and bring greater benefits to all.

Again, honourable senators, history is instructive. In Paul Kennedy's magnificent work entitled "The Rise and Fall of the Great Powers", which traces economic change and conflict from the year 1500 to the year 2000 over and over again, the same pattern for growth and greatness, he tells us, is dependent directly or indirectly upon the nurtured population growth of the rising nations. How open its migration is and how the society absorbs migration has been the benchmark of innovative, dynamic societies. Nations fall when nations' hopes are outstripped by their economic growth. Nations rise with a growing, diverse, industrious population.

In my own city, Toronto's highly acclaimed urban expert, Jane Jacobs, has demonstrated in her book "Cities and Wealth of the Nations" that national wealth is accelerated by the diversity of population. Diversity spawns innovation. She proved it. The English historian Paul Johnson, in his awesome history of the modern world entitled "Modern Times", calls this "the displacement factor". People displaced from one civilization to another tend to be on the cutting edge of change and innovation. The more diverse the population, the greater the innovation, the greater the change, the greater the growth.

So, honourable senators, despite the time, despite this 11 months, despite the mathematics of democratic debate, the wrong questions were asked. The questions for Canada should not have been how to build bureaucratic barriers to deter refugees. Rather, we should have asked our people, our cities, our provinces, objectively and rationally, how the levels of

population growth could be increased. We should have asked: How can we ensure that the absorption of these new, industrious people develops in a more orderly fashion across Canada? How do we take the skills brought to us—these language skills and cultural skills—and transform them into national wealth that can only benefit and enlarge the common wealth of our nation? But, no, these were not the questions we debated. Sadly, this past year the debate was not on population absorption rates, innovative catalysts, economic spin-offs or technological change. It was not the voice and vision of Luke Skywalker and the forces of good and growth; it was the voice and the vision of Darth Vader and the forces of darkness and despair that preoccupied the public dialogue.

● (1440)

Yet, to be fair, the Senate rationally demonstrated, without partisan rancour and out of the spotlight of a national "emergency", that governments can and will listen—will listen and change their course. So, honourable senators, we are here not to condemn the folly of the government but to congratulate the minister for finally understanding that the opposition in the Senate was propelled by voices and visions of growth and long-term national gain. Sadly, opposition was not rooted so much in partisan politics—I do not think this was a partisan issue; opposition was rooted within the minister's own cabinet and voices in her caucus and, most regrettably, in the bureaucracy. Over and over again our politicians are exhorted to learn from the lessons of history. Yet our bureaucrats remain immune to change. The Chief Justice of England, Lord Hewart, first drew this to modern attention when, in 1929, he wrote a startling book entitled "The New Despotism". His book was an enquiry into the power that had accumulated in the bureaucracy and what steps could be taken to make the bureaucratic action and administered law more accountable to public policy. The contest of voices and visions between minister and ministry was most evident in the confusing legislative journey of these two bills.

Essentially, honourable senators, our duty is to ensure that the laws we pass conform both to the principles of pragmatism and to the principles of the Charter, because the Charter tends to make bureaucratic decisions, after the law passes, much more accountable to the rights of the individual. Now, with the Charter, pragmatism and principle can march together. Honourable senators will recall that we have been told overwhelmingly by the more than 1,000 briefs from every part of the country, from every group from every region in the country from coast to coast, that the administration of the refugee laws is wanting. Jonathan Swift, in his remarkable fable, "Gulliver's Travels", put it even better when he wrote about criteria that the Lilliputians adopted in choosing persons for public employment. He wrote:

> They have more regard for good morals than great abilities . . . for, since government is necessary to mankind, they believe . . . that providence never intended to make management of publick affairs (to be) a mystery, to be comprehended by only a few persons of sublime genius of which there are seldom three born in an age. They suppose truth, justice, temperance, and the like to be in every man's power; the practice of which virtues assisted by experience and a good intention, can qualify any man for service of his country . . .

The refugee process under Bill C-55 continues to be cumbersome, complex and a mystery to most. There is much yet to reform. Our bureaucrats must heed the other voices demanding a more equitable solution.

So, honourable senators, we come to the end of a saga of legislative history. I predict, honourable senators, with the passage of Bills C-84 and C-55, that this is not the end. This is the beginning of a deeper reformation of our immigration and refugee policies. The laws remain imperfect, unfair and complex. Suddenly there is a new vibrant and confident Canada. The government changed course because it caught glimpses of this new Canada.

The history of refugees is the history of Canada. Look at the modern history of Toronto. Close to 40 per cent of the heads of the households in my city speak a first language other than French or English. The food we eat, the sports we watch and play, the days we celebrate as holidays and the music we dance to are now different. Metro Toronto's dynamic growth and diversity is directly attributable to migrant waves of new people now living and working in our city. Toronto is a different and better place to live in because of the rainbow of refugees who chose to settle there. It is my hope, honourable senators, that next time round the government will start by asking good questions: What kind of Canada do we want? What kind of Canada do we need? How do we get there fairly and quickly?

The legislative history of Bills C-84 and C-55 is not a "March of Folly" but a march—a meandering, perambulating, slow march, but a march nevertheless—towards the future. Now we await different drummers! A different, dynamic Canada awaits us! It is not too late to learn from the lessons of history.

Hon. Jacques Hébert: Honourable senators, I move the adjournment of the debate.

Hon. Nathan Nurgitz: Honourable senators, my understanding is that Senator Hébert wishes to speak tomorrow.

Senator Hébert: Yes.

Senator Nurgitz: In that case, I should like to follow Senator Grafstein today. I, too, pay tribute to the committee and to Senator Neiman in the handling of these complicated bills that affect matters which, as Senator Grafstein attempted to demonstrate, are of deep concern to all of us. I should like to correct Senator Grafstein on several items, but there is one in particular that I think, as a matter of record, should be corrected, which is that the reports of the committee at all stages were majority reports. They were never unanimous reports, as Senator Grafstein indicated, and that includes the report which Senator Neiman tabled today. Without going too far, I suspect that Senator Hébert wishes to be free tomorrow, as is his right, to say some things that may separate his views from some of the findings in the report. Therefore, while it is,

indeed, a fact that all of the reports were majority reports, different members of the committee have differing views on some of the matters under discussion. Not one of the reports was unanimous.

Senator Grafstein: If honourable senators will allow me to respond, the point I was trying to make was not that the reports were unanimous but that I believe that the issues and principles in the reports achieved wide consensus on both sides. That is the point I was trying to make.

Senator Nurgitz: If that was the point Senator Grafstein was trying to make, I agree with it. The only point I am trying to make is that the reports were not unanimous.

Honourable senators, I trust that in making these comments I am now dealing with the two items, the report on the motion on Bill C-84 and the report on Bill C-55.

In our report on Bill C-84 the committee recommended that the Senate insist on our amendment that would eliminate the authority to turn ships away. That recommendation was based, in part, on the expectation of the government that the new determination system in Bill C-55 would result in fast decisions and on our view that, therefore, bringing ships to shore would not cause irreparable harm to the system.

In its response the government, through the House of Commons, has taken us at our word. Once Bill C-55 has been proclaimed and the system has had time to prove itself, section 91.1 of the act will cease to be in force. Without either Bill C-55 or Bill C-84, this country has no defence whatsoever against bogus refugee claimants and no meaningful power to attack those who profit from organizing illegal migration, which endangers the lives of desperate people in the process.

We have sought words that could better focus the offense and penalty provisions of Bill C-84. We have been concerned that humanitarian efforts might be at risk.

● (1450)

I have not been confident that the words proposed by the committee would resolve the concerns and ensure that the real exploiters of human misery could be successfully prosecuted. The government, with its access to expertise on criminal prosecutions, has indicated to us that these words could not achieve the goals we were looking for. I am prepared to accept that the discretion of the Minister of Justice and Attorney General, or his deputy, will ensure that legitimate and dedicated humanitarians will not be harassed and will not be prosecuted. That is an amendment that came about as a result of our concerns for the various humanitarian groups. Honourable senators, if a minister of the Crown must make an assessment of that evidence and must put a personal signature on that before a prosecution can start, that is a measure of protection.

In our report on Bill C-55 we recognized that the refugee-determination system needed a complete overhaul. We concluded, with reservations, that the structure chosen by the government should be left intact.

We did propose changes in a number of areas. I am of the view that the government has responded openly to our proposals. The committee proposed 18 amendments. The government has accepted two; it has offered alternative wordings for six; and it has proposed four additional amendments to the bill.

With respect to the "safe" third country concept, the government response accepts that such countries should provide determinations on the merits of the claim, that there should be an advisory committee to provide information and insight to cabinet, and that cabinet must consider the human rights record when deciding whether to include a country on the list of those which protect refugees and claimants as well as Canada does.

The government response accepts our proposal that only the minister, personally, can exclude security risks from the refugee-determination system.

Under these latest changes the process of granting permanent residence to Convention refugees will be quicker, simpler and easier than that originally proposed, a tremendous improvement over the status quo, where even the opportunity to apply needs the discretionary authority of officials.

When she spoke to us in April, the minister, the Honourable Barbara McDougall, stated her view that these two bills are linked, a view that we have always held. In that light we have to look at the bills, and the many changes that have been made to them, as a package.

Bill C-84 provides interim controls, pending implementation of the new determination process. They are urgently needed. Implementation, I understand, is at least four to six months away, and as that time passed I am certain that, without Bill C-84, the situation would worsen.

Bill C-84 also has longer-term purposes, since the problems of illegal migration and profiteering are not going to disappear with the passage of these bills. Immigration officials will need these tools to do their jobs in the future.

Honourable senators, Bill C-55 will provide a vastly improved determination system, one that will be more fair and more efficient than that currently in force. The amendments that have been made, both those proposed in the Senate and those proposed in the other place, have improved the new system further. The risks of error and the potential consequences of error have been reduced. Procedural safeguards have been improved. Potential constitutional problems have been addressed and, we hope, resolved.

The committee has taken the time and the care to investigate closely these bills. We have provided the opportunity for public input, not only from national organizations situated here in Ottawa but by travelling across the country.

The changes we have achieved are, I think, a victory for the process. All senators can be proud of what we have achieved. Now we have to face the reality of a refugee-determination system in chaos and recognize that we cannot take more time. We must act, and act quickly. We can act now, confident that we have a fair and pragmatic solution to the concerns raised by the witnesses who appeared before us.

Honourable senators, with respect to these two bills, the committee has received editorial and newspaper comments from across the country—some fair and some otherwise. Many

of these comments have been complimentary. The Ottawa *Citizen*, not always a great fan of this institution, has indicated that the Senate has done good work. In its editorial on July 14 it indicated that we had made useful improvements, but that we should now let the government's two immigration bills proceed. It went on to say:

> To delay longer would be unfair to legitimate refugees and to groups like the Turks who, because of the slowness of the refugee process, are allowed to establish roots in Canada only to be turned away.
>
> We do have an emergency in immigration, even if it isn't the one foreseen by the government last summer: a system that is so inefficient, so overloaded, that it too often excludes the deserving, punishes the innocent, and rewards the unscrupulous.

Honourable senators, I recommend and urge acceptance of the messages received from the House of Commons.

On motion of Senator Hébert, debate adjourned.

IMMIGRATION ACT, 1976

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the twenty-sixth report of the Standing Senate Committee on Legal and Constitutional Affairs (motion respecting Bill C-84) presented earlier this day.

Hon. Joan Neiman moved the adoption of the report.

She said: Honourable senators, I believe this order is in the process of being debated.

On motion of Senator Hébert, debate adjourned.

CHILD CARE

CONSIDERATION OF REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ON FINAL REPORT OF SPECIAL HOUSE OF COMMONS COMMITTEE ON CHILD CARE ENTITLED "SHARING THE RESPONSIBILITY"—ORDER STANDS

On the Order:

> Resuming the debate on the consideration of the Eighteenth Report of the Standing Senate Committee on Social Affairs, Science and Technology (Sub-Committee on Child Care), tabled in the Senate on 12th July, 1988.—(*Honourable Senator Bonnell*).

Hon. William J. Petten: Honourable senators, this order is standing in Senator Bonnell's name. Senator Bonnell is attending a committee meeting at the present time and will deal with this order tomorrow, Thursday, July 21.

Order stands.

[Senator Nurgitz.]

CANADIAN INTERNATIONAL TRADE TRIBUNAL ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE

MOTION TO AUTHORIZE BANKING, TRADE AND COMMERCE COMMITTEE TO STUDY SUBJECT MATTER OF BILLS C-110 AND C-121—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator MacDonald (*Halifax*), seconded by the Honourable Senator Walker, P.C.:
>
> That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the subject-matter of the Bill C-110, An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof, and the subject-matter of the Bill C-121, An Act to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain Acts in consequence thereof, in advance of the said Bills coming before the Senate or any matter relating thereto.—(*Honourable Senator Frith*).

Hon. Finlay MacDonald: Honourable senators, with regard to this order, because Senator Frith responded to my first request for a pre-study, one is left to assume that he finds it might be an unnecessary duplication to respond to my second request of June 14, 1988. I suppose that would be a correct assumption.

I note that in his first remarks in responding to and rejecting my request for a pre-study Senator Frith indicated that the new policy of this place is to deal with these bills consecutively. To my knowledge, there are three bills that have passed the House of Commons and are now awaiting a reference to the Standing Senate Committee on Banking, Trade and Commerce.

Hon. Ian Sinclair: Do not assume anything.

Senator MacDonald: I think that is a safe assumption, Senator Sinclair.

Senator Sinclair: I do not think so.

Senator MacDonald: I am referring to the Canadian International Trade Tribunal and Eldorado Nuclear Limited.

Senator Sinclair, I notice that the Banking Committee is sitting tomorrow and is dealing with Bill S-15, because it has nothing else to do. This was the idle committee to which I referred when I first brought the matter up.

Senator Sinclair: Honourable senators, what goes on in the Banking, Trade and Commerce Committee is unknown to people on the other side because they have not been there for two weeks.

Senator MacDonald: Honourable senators, one does not have to be there to take note of the nonsense which has been going on in that committee for the last couple of weeks.

I can make my point very succinctly. Senator Frith does not feel that he should respond to my request for a pre-study. Now that the bills have passed the other place, may I ask him if I

may have leave to give second reading to one of these bills, the bill involving the merger and the privatization of Eldorado Nuclear Limited?

Hon. Royce Frith (Deputy Leader of the Opposition): Are you asking?

Senator MacDonald: I am asking.

Senator Frith: No.

Senator MacDonald: So we cannot get pre-study and we cannot get the bill after it has passed the other place. Are you saying that this is not dilly-dallying?

Senator Frith: Was Senator MacDonald in attendance yesterday?

Senator MacDonald: Yes, I was present.

Senator Frith: Apparently not completely. Perhaps he should read the *Debates of the Senate* of yesterday and he will understand the position that was taken with regard to those bills.

Senator MacDonald: If you are referring to that fit of pique yesterday, I was present and heard it.

• (1500)

Senator Frith: To quote Senator MacDonald of yesterday, a simple request for leave to withdraw this motion would probably get a favourable response.

Senator MacDonald: Well, it obviously should be done.

Senator Frith: Agreed.

Hon. Efstathios William Barootes: Honourable senators, excuse me. On a point of order, I thought I heard Senator Frith say that a simple request for such a motion—

Senator Phillips: For leave.

Senator Barootes: —would be acceptable or would be done. I thought that that had been made, honourable senators. Am I to assume that Senator Frith is in acquiescence with the request from my friend?

Senator Frith: I always forget that I have to speak more slowly for Senator Barootes.

Senator Sinclair: He is hard of hearing!

Senator Frith: I said that a request by the mover of the motion for leave to withdraw the motion would get a favourable response. Senator MacDonald, having heard what I had said earlier—not accepting it willingly but having heard it—said, "Obviously, that should happen." I agree with him that, since the bills are here in the Senate, we should have the motion for pre-study withdrawn.

Senator Barootes: That is good. Thank you very much. I am sorry that I did not hear what you were braying earlier.

Senator Frith: What uncharitable talk about "pique" and "braying"!

Order stands.

CANADA-UNITED STATES FREE TRADE AGREEMENT

PROSPECTS OF CANADIAN ECONOMY

Hon. Philippe Deane Gigantès rose pursuant to notice of Thursday, July 14, 1988:

> That he will call the attention of the Senate to the prospects of the Canadian economy under the Free Trade Agreement as forecast by the Right Honourable Brian Mulroney, Prime Minister, and his Cabinet.

He said: Honourable senators, this is on free trade. You have all been given a text, which you have on your desks.

One of my betters in this chamber—and I am glad to say elder, though he does not look it—said that he is not impressed by passion or sentiment in speeches; he wants facts. I have been doing research for the past four months and this speech contains these facts.

I have read the 315-page text of the Canada-United States Free Trade Agreement several times; studied the documents to which it refers; pored over articles and testimony both for and against the agreement. I have kept 112 of these extensively cross-referenced in my computer. I have had the facts I shall give below checked by the learned researchers of the Library of Parliament, whose job it is, if asked, to make sure I have my facts straight, whether they share my economic views or not. And I am about to prove that:

Mr. Mulroney, in his trade deal with the U.S., did not obtain his main "vital condition": exemption for Canadian exporters from "unfair", protectionist U.S. trade laws. I shall prove that, even though we paid a huge price for it, we now have no more protection than we had before the deal. I shall also prove that economic forecasts used by Mr. Brian Mulroney to sell his deal predict not prosperity but a $1,200 yearly loss in income per person by 1998. These are in 1981 dollars. It may sound unbelievable, but it is true.

I shall show there was a better way than Mr. Mulroney's deal to preserve our trade with the U.S. I shall show that we chose the worst course, for ideological reasons. I shall prove that politicians and business people misled us, not all of them intentionally. Some business people misled us into choosing the worse course because they believed it to be better: I shall give evidence that it is not better.

I know that by this stage some of you will be tempted to listen no longer, arguing that I am another protectionist who opposes free trade and dreams improbably of weakening or even cutting our links with the U.S. I do not dream that dream.

For now and far into the future, whether we have a bilateral trade agreement with them or not, we shall never be able to dodge the issue of trade with the Americans and the issue of their protectionism and our protectionism. We are their puny Siamese twin, inseparably joined, our belly to their back, so that they are never out of our sight and we are never in theirs. Our trading links are too strong to be broken; for evermore our two countries shall be in negotiatons over trade.

But trade should be good for both partners. Not all trade is good simply because it bears the label "free". The words "free" and "trade" conjure up warm feelings in most people; combined, these two words are a powerful slogan. I do not oppose free trade; I am arguing against a "bad" trade. Surely no one wants a bad trade, in the sense of paying an exorbitant price. I shall demonstrate that in Mr. Mulroney's trade deal with the United States we have paid an exorbitant price for what we got. Because this deal so vitally affects us, I beg you to keep listening. It is our duty as citizens to be informed.

The clearest way of explaining a complex issue is to say: "Here is the proposition I intend to prove; here are the facts that prove it in detail. Therefore, I have proven my case." This destroys suspense, but when the author has done the research and knows the answer he should not play coy with his readers for the sake of suspense. So I shall demonstrate that Mr. Mulroney's trade deal with Ronald Reagan was a bad choice for Canada, and I shall do so by proving the following propositions, in order:

(1) Before Mr. Mulroney and Mr. Reagan signed their "Free Trade Agreement", the FTA, our international trade was not broken and did not need fixing. With the U.S. and the rest of the world, our trade was healthy and had been growing fast. Our partners benefited more from trade with us than we did.

(2) Through GATT, the General Agreement on Tariffs and Trade, the multinational treaty to promote freer trade, Canada is well protected against efforts by other countries to keep out our exports unfairly.

• (1510)

(3) Mr. Mulroney promised that a trade treaty with the Americans would give our exporters better protection than the GATT gives them. He also promised that we would sign a trade deal with the Americans only if such a deal gave us this better protection for our exporters than the GATT gives them and, thus, a better investment climate and many more jobs.

(4) Prime Minister Mulroney, in his deal with the U.S., did not obtain his main "vital condition": exemption for Canadian exporters from "unfair", protectionist U.S. trade laws. We now have no more protection than we had before the deal.

(5) Economic forecasts used by Mr. Mulroney to sell his deal predict not prosperity but substantial loss of income—$1,200 per year—for every Canadian man, woman and child in 1998 after the Free Trade Agreement is fully in effect. Even so, Mr. Mulroney signed this deal, which was not "better". Yet, according to the selfsame forecasts, the risks of not signing it were minimal, a loss of 8.6 cents a day per Canadian in 1998 and a loss of 22,000 jobs over 11 years.

(6) We paid far too much for what we got in this deal.

(7) There was a better alternative.

(8) We were misled, every step of the way.

Unless otherwise stated, the figures that follow are in 1987 Canadian dollars, which means that the inflation that has occurred over the years has been taken into account and figures are comparable: no apples and oranges confusion here.

[Senator Gigantès.]

The proofs that support propositions (1) through (8), above, will be numbered as (1.1) then (1.2) and eventually (8.1), and so on. This might be formal, but the numbering will help senators find the relevant proofs. Each section will be headed by the text of the proposition to be proved, in bold characters in the text before you. The proofs supporting each proposition will be headed by brief numbered summaries, in italics in the text before you.

The next few pages are a summary and table of contents of the whole demonstration. Because the examination of the trade deal is inevitably complex, the summary that follows is a sort of guide to which the reader can refer back and find where any particular paragraph in the text fits into the scheme of the whole argument.

The proofs below give the relevant texts and figures so that the readers can judge for themselves whether the various propositions have, indeed, been proven. If the readers agree, then they might keep this text, which is designed to be an easy reference tool, as the national debate on this vital issue continues through the years—because it will never be over. The Canada-U.S. Free Trade Agreement, if it passes, is our new country: This is the map of how we got there.

Honourable senators, I will dispense with reading the Summary and Table of Contents, since you have it before you, and I will come now to the body of the agreement.

Hon. Finlay MacDonald: Senator Gigantès, several of us who came into the chamber at noon hour today were apprised by the media that there had been a meeting of the Liberal caucus at which a decision had been taken by the party with respect to matters involving free trade, in which area you are obviously a knowledgeable person.

For those of us who have not seen or read what transpired at that meeting, could you please tell us? The media knows; some of us do not.

Senator Gigantès: Are you asking me, sir, to tell you what went on in our caucus?

Senator MacDonald: I am asking you to tell us what statement was made and published by your caucus, for those of us who do not know.

Senator Gigantès: Are you asking me to tell you what we said inside the caucus or what we said outside the caucus afterwards?

Senator MacDonald: I am asking for what was said publicly.

Senator Gigantès: You will have that on the screen from Mr. Turner himself. The statements of my honourable leader, Senator MacEachen, are also on the record. If you do not mind, sir, I will let you read their great eloquence in their own words in the press tomorrow morning or see it on television later today, while I proceed with my modest efforts at handling the English language, if you will allow me.

Senator MacDonald: Senator Gigantès, it is not a matter of allowing you; it is a matter of courtesy to your colleagues. You will not advise us of what transpired and you ask us to—

Senator Gigantès: I would hate to try to emulate the eloquence of either Senator MacEachen or Mr. Turner and repeat what they said. I will let you enjoy to the full what it was they said.

Honourable senators, the title of my next section is: "The Propositions and their Proofs".

(1) Proposition to be proved: Before Mr. Mulroney and Mr. Reagan signed their Free Trade Agreement, the FTA, our international trade was not broken and did not need fixing. With the U.S. and with the rest of the world, our trade was healthy and had been growing fast. Our partners benefited more from our mutual trade than we did.

Proof (1.1) Though we are America's largest trading partner, we are an infinitesimal part of America's trade problems. That is the heading of this proof. Here is the proof:

Our two countries pay one another enormous amounts for goods, services and in dividends, a two-way total of $220 billion in 1987—and these figures are in 1987 dollars and they are Canadian. According to the "U.S. Survey of Current Business", an official Washington publication, in 1987 the Americans paid us $825 million more than we paid them under the so-called current account, which includes goods, services, interest and dividends—that $825 million is the current account deficit of the U.S. in its 1987 transactions with Canada. This $825 million equals four tenths of 1 per cent of America's current account deficit with the rest of the world—four tenths of 1 per cent!

Proof (1.2) The Americans' current account deficit with Japan is 96 times larger than their deficit with us.

The 1987 transactions in goods, services, dividends and interest between the U.S. and Japan totalled $196 billion; America paid $79 billion more to Japan than Japan paid the U.S.: that $79 billion is the U.S. current account deficit with Japan—96 times larger than the U.S. deficit with us.

Proof (1.3) The Americans' current account deficit with Europe is 50 times larger than with us.

Total two-way transactions in goods, services, interest and dividends between the U.S. and the 12 nations of the European Community was $368 billion in 1987; and the U.S. deficit in that trading relationship was $41 billion, or 50 times larger than the Americans' deficit in their transactions with us.

So, not only are we the Americans' largest trading partner, we also cause them the fewest problems, if any. We account for only four tenths of 1 percent of the Americans' problems in their current account balance; Japan accounts for 40 per cent and Europe for 21 per cent.

Proof (1.4) On average, the U.S. has had a considerable surplus in its transactions with us.

In 35 of the past 40 years the U.S. has had a current account surplus in its commerce with us. The usual situation between our two countries is that we pay them more than they pay us. In the past 20 years alone the U.S. surplus in transactions with us has totalled $61 billion at 1987 prices—after accounting for inflation, that is.

• (1520)

Proof (1.5) Trade between Canada, the rest of the world and the U.S. has been increasing steadily and fast.

Between 1973 and 1984, a period that encompasses the two oil shocks and the deepest recession since the 1930s, world trade, after inflation, grew 50 per cent; so did our trade with the world grow 50 per cent. These are much faster rates of growth than that of our economy, which grew 30 per cent, after inflation, in that period; and even faster than our employed population, which grew 25 per cent from 1973 to 1984.

In the past 20 years, after accounting for inflation, total two-way trade in goods and services between us and the Americans has increased 180 per cent; in the same period U.S. exports of goods and services to Canada have increased 160 per cent, after inflation. One could hardly say that Canada has been against more trade.

Proof (1.6) Tariffs have come down spectacularly in trade between Canada and the U.S.

Between 1965 and 1987 Canadian tariffs on imports from the U.S. were cut to one third, from 8.1 per cent to 2.7 per cent, on average. In 1986—the 1987 figures were not ready at the time I prepared my speech—73.2 per cent of what we bought from the U.S. entered Canada duty free, against only 51.0 per cent in 1965. And even without the Mulroney-Reagan trade agreement, the continued reduction of the remaining tariffs was being negotiated in the current or Uruguay Round of the GATT, the General Agreement on Tariffs and Trade, the multinational free trade agreement. This latest round of GATT negotiations to liberalize world trade is a victory for the U.S. advocacy of global free trade. Actually, if one is to believe the U.S. administration, the Free Trade Agreement with Canada was part of, and never a substitute for, the traditional American policy of global free trade.

So Canada has shown by its actions over the years that it is for more and freer trade and certainly for what the Americans call "fair" trade, meaning that we are prepared to buy as much from the Americans as we sell to them, thus keeping the transactions balanced. From the U.S. point of view, we are the best of good guys as a trading partner.

Proof (1.7) Canada-U.S. trade means better jobs and more technology for Americans than for us.

In 1987, for instance, we sold to the U.S. $9.5 billion worth of unprocessed, inedible materials; they sold us only $3.4 billion worth of such materials. Seventy-three per cent of their exports to us, worth $68.2 billion, were in the better-job-content categories of travel services, business services, electronic products, motor vehicles, parts for motor vehicles and other manufactured goods. In those categories we sold only $54.2 billion to the Americans.

They sold us fully finished goods worth $57 billion and we sold them $46.8 billion worth of such goods. Technology and the better jobs are more likely to be in fully finished rather than in unprocessed goods. However, there are no reliable economic studies that give the precise number of jobs involved.

Honourable senators, in my text I have a small table that takes up about 12 lines. It describes in tabulated form the figures I have just read to you. I hope that no one objects to this table appearing in the record. If anyone objects, will he please say so?

Senator Flynn: It does not mean that we accept its veracity.

Senator Gigantès: Then, let it be noted that the Senate does not object to the publishing of the table on page 10 of my text.

TABLE I: CANADA-U.S. TRADE IN 1987

	Sold to America		Bought from America	
	%	$ bil.	%	$ bil.
Travel services	3.9	4.15	5.5	5.12
Business services	3.1	3.30	6.6	6.20
Electronic products	4.0	4.30	9.3	8.62
Motor vehicles	19.4	20.74	13.6	12.72
Auto parts	10.4	11.16	16.6	15.53
Other manuf. products	9.8	10.51	21.3	19.98
TOTAL	50.6	54.16	72. 9	68.17

NOTE: Percentages are of total Canada-U.S. trade for 1987. The data come from Statistics Canada.

Proof (1.8) Our trade with Japan and Europe also means better jobs and more technology for them than for us.

In 1987 the Japanese sold us $6.8 billion worth of fully finished products, 20 times the $343 million we sold them. We sold only $1.8 billion worth of fully finished products to the EEC, the European Economic Community, and bought $7.1 billion of such products from them.

Proof (1.9) In view of the above, our principal trading partners have no objective interest to keep out our exports.

Commerce with us is good for our major trading partners. They have little reason for turning protectionist against us. Protectionism stems partly from the need to preserve employment by making things at home rather than importing them. The "things" that represent the better jobs and the most technology are fully finished products.

A foreign client, like Canada, that buys many more fully finished products than it sells is not the kind of client whose exports one rationally excludes; because, if our exports are excluded by our foreign clients, then we shall not be earning enough of their money and shall not be able to afford what they export to us in fully finished products.

Proof (1.10) We are the glacis of the United States—an important point.

The glacis, in medieval times, was the area closest to your fortress, an area where you wanted absolutely no trouble. The U.S. could not have a less troublesome glacis: in our Northwest Passage, we bomb their trespassing ships with small Canadian flags. The Russians should have had such luck in Afghanistan. Nice neighbours like us, so strategically essential, deserve fairness: more on this later.

Therefore, proposition (1) has been proven, that:

[Senator Gigantès.]

Before Mr. Mulroney and Mr. Reagan signed their "Free Trade Agreement", the FTA, our international trade was not broken and did not need fixing. With the U.S. and the rest of the world, our trade was healthy and had been growing fast. Our partners benefited more from our mutual trade than we did.

But what if our trading partners irrationally decided to treat us unfairly? What protection did we have before the Mulroney-Reagan trade deal against unfair trading practices? Was the General Agreement on Tariffs and Trade, the GATT, the multinational free trade organization, security enough for us against foreign protectionism?

I come now to proposition (2), to be proved: Through GATT, the General Agreement on Tariffs and Trade, the multinational treaty to promote freer trade, Canada is well protected against efforts by other countries to keep out our exports unfairly.

The settlement of trade disputes is a terribly important aspect of any international trade system like the GATT. Such a system stands or falls by its performance on settling disputes among members, given that international trade is intensely political—if only because it is politically easier to blame foreigners for one's trade woes.

Disputes often arise because the trade benefits to one trading partner or the other, when graphed, do not appear as a straight line but zigzag, up and down, as is inevitable between free enterprise economies. It is when they think their sector should have zigged up rather than zagged down that special interest groups launch their lobbyists. This occurs on both sides of commercial borders with the same degree of fairness or unfairness. American business people are not invariably satanic nor Canadian entrepreneurs invariably angelic. When it comes to ethics they are interchangeable, and their malcontents for hire—their lobbyists, that is—are equally prevaricatory.

"We are losing sales because of unfair competition from imported widgets," they clamour. The bigger picture might show that our losses to imported widgets are compensated by gains in exporting our country's computers. But we domestic widget makers are not personally compensated. We want protection for our home-made widgets and the jobs they represent.

● (1530)

There generally is a legislator, facing election, who feels he must protect his widget-making voters. Sometimes this leads to actions that other countries consider to be unfair international trading practices under the GATT.

Proof (2.1) GATT aims to ban protectionist practices, generally. It believes that untrammelled trade is best for all nations.

After World War Two, GATT was promoted by successive U.S. administrations to make sure nations would not sink again into the extreme protectionism of the Great Depression, thereby causing another great depression. The economic theory on which the GATT is based holds that untrammelled

global commerce is best for everyone. Under conditions of free trade, each nation exports those things for the production of which it has a comparative advantage. Certain countries, for instance, have better climate and better soil than others for making wine. To interfere with this "natural" allocation of advantages means producing things in the wrong places and, hence, more expensively, thereby reducing consumption, hence production and, thus, wealth.

The 96 members of GATT have developed agreed rules about what is fair trade. GATT regulates tariffs and has codes of behaviour on non-tariff barriers, subsidies and dumping. GATT goes so far as to decree that certain laws passed by its member countries are against the spirit of GATT itself.

GATT deems it "unfair", and in the long run economically harmful, to sell exports for less than they cost to produce—a practice called dumping—if this injures the producers of similar products in the importing country. Governments must not subsidize their exporters so that these can sell at less than they could without subsidy, but only if this injures producers of comparable goods in other nations. I want to stress that GATT does not have an ideological aversion to subsidies; it objects to them only if subsidized goods injure producers of comparable goods in other nations. Nor must other peoples' exports be kept out through discriminatory tariffs, which are taxes on specific imports from one nation but not from another; or by non-tariff barriers, such as customs procedures that are deliberately discriminatory, or patently nationalistic quality standards, or "buy our own" campaigns.

The GATT has not been successful so far in developing workable, accepted rules for trading agricultural products. And the GATT does not cover trade in services. But the current GATT negotiations are addressing these issues. The GATT has not been successful so far in developing workable accepted rules for agricultural products, because the main agricultural producers have refused to deal with GATT, but they are discussing it now.

Be that as it may, over the decades GATT has cut tariffs deeply and much increased world trade. I would suggest that you see point (1.5) above.

Proof (2.2) GATT fights cheating that foils free trade. GATT member country A can claim that member country B is breaking the agreed general rules of GATT or one of its specific codes—the code on dumping, for instance. GATT panels of experts from countries not involved in the dispute issue a ruling which is only applicable if it is accepted by the GATT members, including both A and B.

If the ruling is in favour of A, B can appeal to the 96-member GATT council; or country B may accept that it has broken the rules but may refuse to stop its offending practices. Country A may then ask for and obtain from GATT the right to retaliate proportionately. Obviously, if A is a much smaller economy than B, retaliation is ineffective.

In an actual example, Holland won a case against the U.S. The U.S. admitted that its trading practices were an infraction of GATT's code but refused to change them. Holland was allowed to retaliate proportionately against the U.S. The mouse was allowed to kick the elephant. The elephant did not notice.

Proof (2.3) With one exception—see (2.4) below—a wronged GATT member can only act against wrongdoers, not the innocent.

Under GATT, country A may charge that country B is breaking a GATT rule or code. Country A must prove that the measures of country B are inconsistent with the GATT or are causing or threatening injury to A. A GATT panel, if it agrees with A, may ask B to withdraw its offensive measures, and, if not, to compensate A.

If compensation is not paid, the panel may allow A to retaliate proportionately. Redress is only applicable to the offending country. The U.S. cannot win a GATT case against Japan and apply the findings against an innocent Canada. If we are not breaking the rules of GATT, the U.S. or the EEC cannot block our exports under GATT. If they tried, we could then appeal to GATT for redress.

Proof (2.4) Under Article XIX of the GATT, a country may restrict imports if these grow suddenly and are causing or threatening serious injury to domestic producers of similar goods, but the exporting countries are entitled to compensation or retaliation.

Under this procedure, for example, a sudden surge of steel imports from Korea may so threaten U.S. steel producers that Washington restricts imports of steel from all countries, even from Canada, whose steel producers might not have been engaged in over-exporting to the U.S.

However, the country instituting an Article XIX action must consult with countries affected, either before or immediately after it imposes restrictions. These countries may compensate themselves by proportionately restricting imports from the country that launched the Article XIX action.

Proof (2.5) GATT has worked reasonably fast. Disputes are resolved by GATT in about ten months, generally—which is the amount of time allowed under the Free Trade Agreement—though two instances of defiant U.S. protectionism took so many years that they pushed up the average time GATT has taken to settle cases. Reforms begun in 1979 have been speeding up the dispute-settlement process in GATT.

Proof (2.6) GATT arbitration has worked well in nearly all fields, except agriculture. Most often, it is the U.S. and the EEC who try to defy GATT rulings.

Seventy-five dispute-settlement cases were completed by GATT between its beginning in 1948 and 198[illegible], according to a study by the U.S. International Trade Commission. Of these, 62 were settled either because GATT found that the complaint was not justified or the offending party made amends. In seven other cases, mainly dealing with agricultural issues, GATT could not get the parties to agree. The outcome of six cases was not yet known at the time of writing this yesterday.

The U.S. and the EEC or its member states have been parties to nearly all the disputes brought before the GATT in the past 40 years, the U.S. most often as the complainant with

the EEC as the defendant; and most often agricultural issues were the bone of contention . The U.S. and the EEC defy GATT rulings most often. Even so, over 90 per cent of GATT dispute settlements have been accepted by the countries concerned.

Nevertheless, increased GATT disputes and increased defiance are part of an alarming new trend. However, the current GATT negotiations aim at better agreement on trade in agricultural products, in services, as well as improved definitions of what are unacceptable non-tariff barriers and subsidies.

We Canadians have won more often than we have lost in GATT, and it is fair to say that, when we lost, we lost because we broke the GATT rules. If we were tempted to defy the GATT decisions that went against us, we resisted the temptation. Generally, we won when we complained against others: For the most part, GATT members complain when they have a good case.

● (1540)

For example, GATT ruled in our favour when we complained that the EEC was unfairly keeping out our wheat and barley. We have yet to collect compensation. We won when the U.S. put an embargo on our tuna and tuna products over a fishing rights dispute. We won again when the EEC would only import U.S. "high quality" beef, and we were given the right to compete on the European market against the Americans.

We won, in large part, when the U.S. complained that the Trudeau government's Foreign Investment Review Agency, FIRA, asked Americans investing in Canada to buy Canadian goods rather than imports; to manufacture certain goods in Canada rather than import them, and to export a certain share of their Canadian production. GATT never questioned that Canada had the right to screen foreign investment and to seek export commitments from foreign investors, but GATT ruled that we did not have the right to ask that American investors buy Canadian goods, regardless of price or quality. We dropped that last requirement and complied with GATT.

Incidentally, that GATT victory was reversed in the Free Trade Agreement.

In sum, to quote the Honourable Pat Carney: "For the first 40 years since the post-war world first adopted the international rules of the General Agreement on Tariffs and Trade, Canada's exports have multiplied 10 times over . . ." (*Commons Debates*, page 4177, March 16, 1987.)

Therefore, proposition (2) has been proven, that: Through GATT, the General Agreement on Tariffs and Trade, the multinational treaty to promote freer trade, Canada is well protected against efforts by other countries to keep out our exports unfairly.

(3) Proposition to be proved: Mr. Mulroney promised that a trade treaty with the U.S. would give our exporters better protection than under the GATT; he also promised that we would sign a trade deal with the U.S. only if such a deal gave us better protection than the GATT for our exporters; and, thus, a better investment climate and many more jobs.

[Senator Gigantès.]

I am now going to list all these various promises that were made in response to a situation presented to us as follows:

The U.S. has serious problems competing with other nations and is psychologically troubled by this. Developing countries, with very low wages, but with the latest equipment, produce better high school graduates and technicians, better and cheaper ships, cars, computers, cameras, television sets, clothes, shoes, steel and stereos than the Americans can, for the time being. U.S. consumers buy the cheaper, better products made in other countries. Many Americans, who used to build cars or ships at home, are no longer members of a rich labour élite, like the steel workers of yesteryear, but are now low-wage salespeople in straitened circumstances.

Americans buy more from the rest of the world than they sell—$195 billion more in 1987. Because they earn less than they spend in their trade relations, Americans are forced to borrow from the rest of the world. They feel like the embarrassed, formerly rich person with no cash to pay for the children's milk, who has to ask the corner store for credit.

This image of having come down in the world is very powerful and has a great psychological impact on Americans, whether they be newly impoverished workers, who have lost their jobs to imports, or rich and influential Wall Street high flyers. We are bound to be threatened by these American feelings.

It is best to let the Honourable Pat Carney tell in her own words why she thought we needed more than GATT. She was Minister for International Trade when she made the comments that follow. Numbered passages in italics precede, summarize and headline each theme of Ms. Carney's in the text before you.

Proof (3.1) Though it wants more protection for our exporters, the Mulroney government is committed to the GATT trade system.

"There should be no mistaking (the Mulroney) government's commitment to the GATT. We are an active, dynamic and leading player in the GATT. We are absolutely committed to the General Agreement (on Tariffs and Trade) and to the Uruguay Round (of current negotiations to reform the GATT). However, in reaffirming our commitment to the GATT we must realize that it alone cannot protect all our interests." (*Commons Debates*, page 253, October 9, 1986.)

Proof (3.2) The Americans threaten to leave GATT if it is not reformed to include trade in services.

". . . the Americans can no longer dominate traditional markets such as steel and automobiles, and they threatened to walk away from GATT if trade in services was not included." (*Commons Debates*, page 4179, March 16, 1987.)

Proof (3.3) Washington wants a trade deal with us to prove to the rest of the world that an agreement is possible to reform the General Agreement on Tariffs and Trade.

"The feeling in America is very strong that if they cannot make a deal with Canada in these new areas . . . they are unlikely to do it in the GATT. They have a . . . fundamental interest, even an historic interest, in trying to come to terms with us. So, the conditions for these negotiations are far more balanced than the Opposition would lead us to believe." (*Commons Debates*, page 4179, March 16, 1987.)

Proof (3.4) Existing American trade remedy laws used against Canadian exporters in U.S. courts are unfair.

"Trade laws in the U.S. (are) at the disposal of any interest group that wants to bring an action against Canada." (*Commons Debates*, page 254, October 9, 1986.) "In the last seven years, Americans have launched some 40 (cases in U.S. courts) against Canadian goods. Many have failed but those that have succeeded penalized Canadian exports worth over $6.5 billion . . . no one knows better than I about the effect American trade remedy laws have had on our exports. We have seen it in shakes and shingles, fish, lumber, and farm products . . . (their) unilateral decisions on what they call unfair practices are the problem between us . . . (The) Americans call them fair trade laws but they are not." (*Commons Debates*, page 4178, March 16, 1987.)

I include all these quotations because sometimes people like me are accused of being anti-American.

Senator Doody: Never!

Senator Gigantès: Listen to the rhetoric of Ms. Carney.

Proof (3.5) If they lose against us with their existing trade remedy laws, Americans may enact harsher protectionist laws.

"However, what is equally important is a disturbing reluctance in the U.S. to accept the verdict when U.S. interests do not win a case. We see that in the softwood lumber case. We won the case in 1983. We then faced a number of legislative initiatives seeking in one way or other to limit our exports to the U.S. We then faced a fact-finding investigation and yet another countervail action this year. (If) . . . U.S. industry does not get what it wants, there will be the likelihood of more Congressional action." (*Commons Debates*, pages 253-254, October 9, 1986.)

Proof (3.6) American trade remedy laws are applied unpredictably, cause uncertainty and thereby reduce investment in Canada.

● (1550)

"(U.S. court) cases (against Canadian exporters, based on American trade remedy laws) complicate investment decisions because, to be successful, Canadian producers need security of access to foreign markets . . . If the rules keep changing, then that security is jeopardized and diminished." (*Commons Debates*, pages 253-254, Oct. 9, 1986.)

"All of my discussions with Japanese investors . . . encourage me to believe that should we have security of our access to the U.S. market and give the U.S. equal access to our market, . . . access secured by a long-term binding treaty, . . . investment from Japan and other places would flow in increasing quantities to Canada and create jobs." (Ms. Carney, *Commons Debates*, pages 4178 to 4181, March 16, 1987.)

"As long as we have the present countervail system and the same (U.S.) trade remedy laws, as long as there is great uncertainty about what we can or cannot do in order to access (the U.S.) market, it will be a drag on investment." (Ms. Carney, *Commons Debates*, pages 4178-4181, March 16, 1987.)

Proof (3.7) If we do not get a better deal with the U.S., we could lose 500,000 jobs. Please remember these figures. If we do get a better deal, we shall gain 370,000 new jobs.

"We could lose half a million (jobs)" without a better trade deal with the U.S., the Honourable Pat Carney said. "Trade is where the jobs are . . . One per cent of American government procurement could create 75,000 jobs in Canada." A better trade deal with the U.S. provides "the best opportunity to create hundreds of thousands of new jobs and economic studies support this. I can cite studies done by the Economic Council of Canada which show that 370,000 jobs could be created in the next five years." (*Commons Debates*, pages 4178 to 4181, March 16, 1987.)

Remember that economic study by the Economic Council.

Proof (3.8) A "better deal for Canada", Ottawa says, must be a comprehensive agreement, binding the Americans with fair and predictable new rules; these would replace the current U.S. trade laws, which are unpredictable and unfair.

"We want to secure . . . our access to U.S. markets . . . (We want to) deal with (U.S.) dispute settlement mechanisms that are used to harass" Canadian exporters. (*Commons Debates*, pages 4178-4179, March 16, 1987.) "That is why we seek new rules (on) subsidies and related measures . . . We want better rules on what we can and cannot do." (*Commons Debates*, pages 253-254, Oct. 9, 1986.) "We want to lock those rules and that security of access into . . . a long term binding treaty between both countries." (*Commons Debates*, pages 4178-4181, March 16, 1987.)

Or, as Prime Minister Mulroney told the New York *Times* on April 3, 1987, and the quotation is from the article, "there were several vital conditions the (trade agreement) would have to meet. Most important among these, Mr. Mulroney said, is that Canada must be permanently exempt from the United States' fair-trading laws."

Proof (3.9) If we do not get a better deal, as defined in (3.8), there will be no deal.

"If our negotiations do not result in a better deal for Canada, there will be no deal," the Right Honourable Brian Mulroney, Prime Minister, quoted by the Honourable Pat Carney, (*Commons Debates*, page 255, Oct. 9, 1986.)

Therefore, proposition (3) has been proven, that:

Mr. Mulroney promised that a trade treaty with the U.S. would give our exporters better protection than under the GATT; he also promised that we would sign a deal with the U.S. only if it gave us better protection than the GATT for our exporters; and, thus, a better investment climate and many more jobs.

(4) Proposition to be proved: Prime Minister Brian Mulroney, in his trade deal with the U.S., did not obtain his "most important vital condition": exemption for Canadian exporters from "unfair", protectionist U.S. trade laws. We now have no more protection than we had before the FTA. We do not have a better deal.

This section starts with the text of dispute-settlement mechanisms in the Free Trade Agreement, FTA, and the corresponding GATT provisions, so that you may compare.

Proof (4.1) Both the FTA and the GATT have appeals procedures.

(4.1 FTA) "The Parties hereby establish the Canada-United States Trade Commission (the Commission) to supervise the implementation of this agreement, to resolve disputes that may arise over its interpretation and application, to oversee its further elaboration and to consider any other matter that may affect its operation." (Free Trade Agreement, Article 1802, Chapter 18, page 261.)

(4.1 GATT) The comparable text: There shall be established . . . a Committee . . . composed of representatives from each of the signatories of this agreement . . . The Committee . . . shall afford signatories the opportunity of consulting on any matters relating to the operation of the Agreement or the furtherance of its objectives." (GATT, special agreements on interpretation and application of Articles VI, XVI, and XXIII.)

Proof (4.2) In both the FTA and the GATT, if a wrongdoer doesn't offer redress, the wronged party may apply equal retaliation.

(4.2 FTA) "The Commission . . . may refer any . . . dispute to binding arbitration . . . If a Party fails to implement in a timely fashion the findings of a binding arbitration panel and the Parties are unable to agree on appropriate compensation or remedial action, then the other Party shall have the right to suspend the application of equivalent benefits of this agreement to the non-complying Party." (Free Trade Agreement, Chapter 18, page 263.)

(4.2 GATT) The corresponding one: "In cases where the parties have failed to come to a satisfactory solution . . . the Committee may make recommendations . . . with a view to resolving the dispute. If the Committee's recommendations are not followed within a reasonable period, the Commitee may authorize appropriate countermeasures, including withdrawal of GATT concessions." (GATT, Article XVIII, paragraphs 1 through 9.)

Technical note: Some argue that the Commission, established under Article 1802 of Chapter 18 of the FTA—see point (4.1 FTA)—does not have authority over all disputes because of the preceding Article 1801, which states that "Except for the matters covered in Chapter 17 (Financial Services) and Chapter 19 (Binational Dispute Settlement in Antidumping and Countervailing Duty Cases), the provisions of this part (Chapter 18) shall apply with respect to the avoidance or settlement of all disputes regarding the interpretation or application of this agreement . . ."

[Senator Gigantès.]

If words mean anything, however, the words of Article 1802 make it clear that this article is not affected by the exceptions mentioned in Article 1801, above. Here again is what Article 1802 says: "The Parties hereby establish the Canada-United States Trade Commission (The Commission) to supervise the implementation of this agreement, to resolve disputes that may arise over its interpretation and application, to oversee its further elaboration and to consider any other matter that may affect its operation. If there are differences of opinion between Canada and the U.S. on how to interpret and apply Chapters 17 and 19 of the FTA, the only authority to which these differences can be submitted is the Commission, which may deal with "any other matter that affects (the) operation (of the Agreement)."

• (1600)

Proof (4.3) Under both the FTA and the GATT, an importing country can act to limit a sudden surge of imports which threaten or cause damage to its domestic producers.

(4.3 FTA) "If a good originating in the territory of one Party is . . . being imported into the territory of the other Party in such increased quantities and . . . under such conditions so that the imports of such good . . . constitute a substantial cause of serious injury to a domestic industry producing a like or directly competitive good, the importing Party may, to the extent necessary to remedy the injury . . . increase the rate of duty on such good . . . or suspend the further reduction of any rate of duty provided for under this Agreement on such good." (Free Trade Agreement, page 169).

(4.3 GATT) "If (a) product is being imported into the territory of (one) party in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic producers in that territory of like or directly competitive products . . . (the importing) party . . . to the extent . . . necessary to remedy such injury . . . (may) suspend . . . or modify . . . tariff concessions . . . under this agreement." (GATT, Article XIX, paragraph 1.)

Proof (4.4) But import blocking must be announced and discussed in advance with the exporting countries.

(4.4 FTA) "Notification and consultation shall precede (such) action." (Free Trade Agreement, page 169.)

(4.4 GATT) "Before any . . . party shall take (such) action, . . . it shall give notice in writing . . . and shall afford . . . an opportunity to consult . . ." (GATT, Article XIX, paragraph 2.)

Proponents of the the Canada-U.S. Free Trade Agreement, FTA, maintain that the provisions of the FTA in such "emergency" actions against a sudden surge of imports are a great improvement on the protection we had under the GATT. Under the FTA, the U.S., taking such emergency import-blocking action, must exclude Canada from such action unless imports from Canada are substantial and contribute "importantly" to injury for U.S. producers. Five to 10 per cent would not normally be considered substantial. This, say the proponents of FTA, eliminates the problem of Canada getting

caught up in a global action taken by the U.S. against other countries under GATT—the sideswipe effect.

Further, say the supporters of the trade agreement, the U.S. can no longer reduce Canadian imports below a reasonable trend for the previous 36 months or maintain the blocking of imports longer than three years. In other words, under the FTA, Canada and the U.S. will be fair and reasonable towards one another, say the advocates of the trade deal.

However, what if the United States decides to treat Canada unfairly? But does anyone seriously think the Americans are capable of being unfair? Well, when she was Canada's Minister for International Trade, Ms. Carney certainly thought so. She thought the Americans are capable of being unfair: "What is equally important is a disturbing reluctance in the U.S. to accept the verdict when U.S. interests do not win a case . . . (If a) U.S. industry does not get what it wants, there will be the likelihood of more Congressional action." (*Commons Debates*, pages 253-254, October 9, 1986.) In other words, if they lose under the rules, they change the rules. If that is not unfair, what is?

Proof (4.5) Affected exporters are allowed equal retaliation.

(4.5 FTA) "If the Parties are unable to agree . . . the exporting party may take tariff action having trade effects substantially similar to the action taken by the importing Party . . .", whether this is a case of the U.S. blocking imports from Canada alone or from all countries. (Free Trade Agreement, pages 170 and 171.)

(4.5 GATT) "If agreement is not reached . . . the parties (exporting the blocked goods) shall be free . . . to suspend substantially equivalent concessions . . . (to the importing) party . . ." (GATT, Article XIX, paragraph 3).

Notice the similarity every time. Essentially, there is great similarity between all the provisions dealing with dispute settlement in both the General Agreement on Tariffs and Trade, GATT, and in the trade deal signed by Prime Minister Mulroney and President Reagan, FTA: all other issues are also almost identical in the two texts—the steps to be taken, the time allowed for each step, the way experts are selected and listed so they can be called upon to sit on panels adjudicating disputes, and so on.

At the end of the day, after the final appeal in both the GATT and the FTA, it all comes down to the same thing: If country A has wronged country B; if, nevertheless, A will not cease and desist, then B has the right to equal retaliation, in the FTA as in the GATT. And this makes sense, self-evident sense, when we deal not with laws within one country that can be enforced but with relations between sovereign nations. If sovereign country A is unfair to sovereign country B, nothing can be done other than to agree that B has the right to get even. The FTA and the GATT have the same last resort. It could not be otherwise.

Proof (4.6) In his trade deal, Mr. Mulroney did not get a "better" deal; nor did he obtain his "most important vital condition", which he had stated to be exemption for Canadian exporters from unfair U.S. "fair trading" laws.

Why should one object to the free trade deal signed by Mr. Mulroney if it is so similar to the GATT? Because not only did Mr. Mulroney say he was seeking a "better" deal and not just a similar deal; he also did not obtain his most important "vital" condition, which he defined for the New York *Times* on April 3, 1987, ". . . that Canada must be permanently exempt from the United States' fair-trading laws." (See point (3.8) above.)

Under the FTA, the trade deal Mr. Mulroney signed, these American "fair-trading" laws still apply. Here is what the text of the Free Trade Agreement says: "Each Party reserves the right to apply its antidumping law and countervailing duty law to goods imported from the . . . other Party . . . Either Party may request that a panel review . . . a final antidumping or countervailing duty determination (by) a competent investigating authority of either Party to (judge) whether such determination was in accordance with the antidumping or countervailing duty law of the importing party." (Free Trade Agreement, pages 271-273.)

Advocates of the Canada-U.S. Free Trade Agreement point out that this state of affairs is only going to last at most seven years, after which period a new regime will prevail: ". . . pending the development of a substitute system of rules in both countries for antidumping and countervailing duties as applied to their bilateral trade . . . Failure to agree to implement a new regime at the end of the (seven year period) shall allow either party to terminate the agreement on six months notice." (Free Trade Agreement, page 279).

However, under the Baucus-Danforth amendment accepted by appropriate committees of the U.S. Congress in July 1988, American industries will retain the right to file trade actions alleging unfair subsidized trading by their Canadian competitors. This amendment makes sure that, even if Canada and the U.S. agree on a set of common rules, Canadian exporters will never be exempt permanently from harassment under the American "fair-trading laws". And such exemption was Mr. Mulroney's "most important vital condition", without which he would not consider he had achieved a better deal; and he said he would sign only if he did get a better deal.

• (1610)

It is worth repeating the relevant quotations—we must not forget these things: Prime Minister Mulroney talking to the New York *Times* on April 3, 1987: "There were several vital conditions the trade agreement would have to meet. Most important among these, Mr. Mulroney said, is that Canada must be permanently exempt from the United States' fair-trading laws"; and Ms. Carney quoted him: "If our negotiations do not result in a better deal for Canada, there will be no deal." This is Ms. Carney quoting Mr. Mulroney. (*Commons Debates*, page 255, October 9, 1986.)

Here it should also be noted that the Mulroney government treats the Canada-U.S. Free Trade Agreement, the FTA, as a treaty. To implement this treaty, Mr. Mulroney introduced Bill C-130, legislation which gives the FTA pre-eminence over all other Canadian laws: "No person shall, in the purported performance of duties or functions under any law of Canada,

do any act, exercise any power or carry on any practice that is inconsistent with or contravenes this Act or any regulation made under this Act or the Agreement." We can do nothing that goes against this agreement.

In contrast, the Canada-U.S. Free Trade Agreement is not a binding treaty for Washington. Congress there has the power over all commerce. The Free Trade Agreement in Washington is just another piece of legislation that the Congress can amend, and it already has amended it to say that the Free Trade Agreement can never overrule the authority of the U.S. legislature to make trade laws. The converse is true here. They kept the power; we gave it away.

Proof (4.7) Under the FTA, the U.S. can still erect new legislative hurdles for our exports if existing hurdles are not enough.

Before the FTA, if the Americans lost a case against a Canadian exporter in their own courts on the basis of U.S. trade laws, they sought to change the law, as Ms. Pat Carney told us when she was Minister for International Trade. This quotation has to be repeated. We have to remember: "What is equally important is a disturbing reluctance in the U.S. to accept the verdict when U.S. interests do not win a case . . . (If a) . . . U.S. industry does not get what it wants, there will be the likelihood of more Congressional action." (*Commons Debates*, pages 253-254, October 9, 1986.)

The trade agreement signed by Mr. Mulroney allows "more Congressional action" to continue changing U.S. laws if Americans lose their cases on the basis of existing laws. Where is predictability? Here is what the FTA says: "Each Party reserves the right to change or modify its antidumping or countervailing duty laws provided . . . the amending Party notifies the other Party in writing of the amending statute as far in advance as possible . . . A Party may request in writing that an amendment to the other Party's antidumping or countervailing duty statute be referred to a panel . . . (If) the panel recommends modifications to the amending statute (and) remedial legislation is not enacted within nine months . . . the (wronged) Party may take comparable . . . or equivalent executive action . . ." (Free Trade Agreement, pages 272-273.)

In other words, we are back again to the elephant kicking the mouse or the mouse kicking the elephant.

As we already saw, even at the final appeal level, that of the Commission which supervises the whole Free Trade Agreement, it all comes down to equal retaliation. Here, again, is the text: ". . . The Commission . . . may refer any . . . dispute . . . to binding arbitration . . . If a Party fails to implement in a timely fashion the findings of a binding arbitration panel . . . then the other Party shall have the right to suspend the application of equivalent benefits of this agreement to the non-complying party." (Free Trade Agreement, pages 261-263.)

Proof (4.8) Mr. Mulroney's trade deal provides no means for "binding" the U.S. It provides means for binding Canada.

"Binding" the U.S. in the trade deal Mr. Mulroney signed means that we Canadians shall have the right to cut American exports to us by the same amount in dollars as the U.S. cuts our exports to them. Our trade with them represents 24 per cent of our GNP; their trade with us represents only 2 per cent of their GNP. Why should they feel bound?

Proponents of the trade deal concede that retaliation of equivalent value is likely to be felt more acutely in Canada than in the U.S. However, this sanction is irrelevant, writes one of the proponents, Professor Robert E. Hudec, because "the real sanction behind legally binding decisions is national tradition against violating international legal obligations . . . In a political relationship as close as the Canada-U.S. relationship, it should be even more effective than usual." To which one can only reply by citing the Honourable Pat Carney again, when she was Canada's Minister for International Trade: "What is equally important is a disturbing reluctance in the U.S. to accept the verdict when U.S. interests do not win a case . . . (If a) United States industry does not get what it wants, there will be the likelihood of more Congressional acton." (Robert E. Hudec, comments in the Canada-United States Free Trade Agreement: The global Impact, Institute for Research and Public Policy 1988, page 93; and Ms. Carney, *Commons Debates*, pages 253-254, October 9, 1986).

Proof (4.9) The one "new safeguard"—we have been told a lot about that—of the FTA is meaningless: the agreement's binational panels will not give us fairer judgments than U.S. courts did before the FTA.

As always, under U.S. trade laws which continue to apply even after the FTA, the American government or any of its citizens, including corporations, can complain to Washington that a Canadian exporter is guilty of unfair trade practices. As was the case before the FTA, so also after the FTA, U.S. agencies like the International Trade Commission or their Department of Commerce can find the Canadian exporter guilty and impose countervailing or antidumping duties.

The one difference is that after this initial stage the Canadian government can ask that the appeal not be heard in a U.S. court but before one of the binational panels established by the Free Trade Agreement Mr. Mulroney signed.

But this will not give Canada any advantages it did not have before, write Hogan and Hartson, the U.S. law firm hired by Mr. Mulroney's cabinet to study the agreement:

"The documents made clear that the purpose of a binational review of U.S. administrative decisions is to determine if the decisions are in accordance with U.S. law. In addressing this issue, the binational panel will apply the same standards of judicial review that would be applied by the U.S. courts. It is difficult to conclude that the two systems are likely to lead to different results. Indeed, one can reach such a conclusion only if one is prepared to assume that the binational composition of the panel will significantly affect the panel's decisions."

● (1620)

"However, it is reasonable to assume that the (binational) panel will render impartial decisions; and we are not aware of instances in which it has been widely alleged that the U.S. courts have failed fairly to construe U.S. law or to apply the

appropriate standard of judicial review. Accordingly, we can find no reason to assume that the panel is likely to render judgments markedly different from those that would be rendered by the United States courts."

"While the (U.S.) Commerce Department has been believed by some of occasionally construing the anti-dumping and countervailing laws in response to political pressures as well as legal principle, the binational panel mechanism does not eliminate that possibility . . . (for), it appears designed to ensure impartiality at the appelate level, a level at which impartiality has never seriously been questioned." ("Venturing Forth, An Assessment of the Canada-U.S. Free Trade Agreement", The Economic Council of Canada, 1988, pages 35-36).

Further, the appeal through the binational dispute-settlement mechanism as an alternative to an appeal through the GATT may be to our disadvantage. A Library of Parliament research paper says: "An appeal to and ruling by the binational panel forecloses any subsequent appeal by the losing party to the GATT panel process. Since U.S. trade legislation is in general more protectionist than the GATT rules, it is at least conceivable that in some cases Canada's GATT rights could be overridden by a bilateral disputes procedure that, in effect, confers legitimacy on U.S. trade-remedy laws as they apply to Canada."

Finally, the members of GATT panels are picked among citizens of all the 96 member countries, save those that are involved in the dispute. When one is small, as Canada is, there may well be safety in numbers. Under the FTA, on our binational dispute-settlement panels, it will be the Canadian mice alone facing the U.S. elephants. Under GATT, there would be an awful lot of other mice along with us. Or to borrow from Jonathan Swift, within GATT there are a lot of other small Lilliputians like us anxious to bind the giant.

Thus, our problem has not been solved. It never was the process of dispute settlement but the U.S. trade remedy laws themselves, as the Honourable Pat Carney pointed out: "(Their) unilateral decisions on what they call unfair practices are the problem between us . . . (The) Americans call them fair trade laws, but they are not." (*Commons Debates*, page 4178, March 16, 1987.) As we have just seen, these laws our ministers call unfair will continue to govern our exports to the U.S.

Such U.S. laws would still apply to us for at least five to seven years (even without the recent Baucus-Danforth Amendment re-affirming the pre-eminence of congressional legislation over the FTA forever): ". . . pending the development of a substitute system of rules in both countries for antidumping and countervailing duties as applied to their bilateral trade . . . Failure to agree to implement a new regime at the end of the (seven year period) shall allow either party to terminate the agreement on six month's notice." (Free Trade Agreement, page 279).

On this issue, Raymond Koskie, Toronto lawyer, member of the Economic Council, writes: "Canada has, however, committed itself to reviewing its own and U.S. trade laws with a view to harmonizing trade legislation within the next five to seven years. These negotiations will take place after Canada has already made its major concessions outside the social policy, culture and natural resources conservation area . . . (This leaves Canada) in a weak position to obtain substantial progress on U.S. trade legislation without making important concessions on social policy and other matters of essential national interests." Mr. Koskie's opinion is quoted in "Venturing Forth", the publication by the Economic Council of Canada.

Therefore, proposition (4) has been proven, that:

Prime Minister Brian Mulroney, in his trade deal with the U.S., did not obtain his "most important vital condition": exemption for Canadian exporters from "unfair", protectionist U.S. trade laws. We now have no more protection than we had before the FTA. We do not have a better deal.

(5) Proposition to be proved: Economic forecasts used by Mr. Mulroney to sell his deal predict not prosperity but a loss—$1,200 in income for every Canadian by 1998, after the FTA. I shall prove this with figures. Even so, Mr. Mulroney signed this deal which was not "better". Yet, according to these self-same forecasts, the risks of not signing were minimal, a loss of 8.6 cents a day per Canadian in 1998 and a loss of 22,000 jobs over 11 years. These are the government's figures, as I shall prove in a moment.

The facts that follow all deal with the economic benefits the Mulroney government said would flow from the Canada-U.S. Free Trade Agreement and the "dire" consequences of not signing this agreement. In making these predictions, members of the Mulroney cabinet were citing two studies by the Economic Council of Canada: Discussion Paper 331, "Impact of Canada-U.S. Free Trade on the Canadian Economy", August 1987, and, eight months later, Discussion Paper 344, "An Assessment of the Canada-U.S. Free Trade Agreement". The first was based on what the government hoped the agreement would say. The second, No. 344, was a revision of the first and was based on the actual text of the Mulroney-Reagan agreement.

These two studies have been combined in a 40-page booklet by the Economic Council, entitled "Venturing Forth, An Assessment of the Canada-U.S. Trade Agreement". In a foreword, Ms. Judith Maxwell, Chairman of the Economic Council, writes: "This Statement assesses the Canada-U.S. Free Trade Agreement signed by the Prime Minister of Canada and the President of the U.S. on 2 January, 1988. The Statement reflects the views of the Council members and is based upon an in-depth analysis of the agreement by a team of Council researchers."

In its conclusion, "Venturing Forth", the Economic Council's assessment of the FTA, states: "Canadians in general have learned about themselves and about the United States in the past two and a half years, through months of negotiations and millions of hours of study . . ." This is serious-sounding stuff and the Mulroney government has practically papered the land with "Venturing Forth".

"Venturing Forth" and studies 331 and 344, which it explicitly recognizes as its source, (page ix), try to predict where our economy will go with the trade deal ("the most likely outcome") and without ("the base case"). The "base case" does not assume that the Americans will become more protectionist against us if we do not implement the trade agreement. However, the researchers of the Economic Council have studied the possibility that the Americans might turn more protectionist if we did not sign the agreement, and they call this their "Simulation 5".

Such projections use the past to predict the future, but the future seldom fails to surprise us. Nevertheless, computers and armies of equations, representing the past relationships among existing aspects of the economy, turn out studies full of such projections, which are widely used by the Bank of Canada and the Department of Finance as well as the Economic Council. They have limitations, but they do provide some sort of starting point for thinking about the future.

The Mulroney government takes these studies by the Economic Council very seriously and quotes them at every opportunity as evidence of the good the free trade deal will do Canada.

Notably, on Monday, July 11, 1988, the Honourable John Crosbie, P.C., M.P., Minister for International Trade, said: "Let us look at what the Economic Council of Canada has to say . . . The council identifies scenario 2"—the Council calls it "simulation" and the minister calls it "scenario"— "as the most likely outcome which shows real output up by 2.5 per cent and employment higher by 251,000 . . . a net increase in jobs of 251,000." (Minutes of the Proceedings of the Legislative Committee on Bill C-130, An Act to implement the Free Trade Agreement between Canada and The United States, Issue 2, page 2-46.)

Here, then, is what the Economic Council studies used by the Mulroney government say about our future, after the FTA has come into full effect in our two countries, by December 31, 1998. Figures are given, hereunder, in 1981 dollars, which are the constant dollars the Economic Council uses to factor out inflation.

• (1630)

Proof (5.1) Without the free trade deal, we could lose 22,000 jobs, not 500,000 as the Mulroney government predicted.

Ms. Carney predicted that if we did not sign the Free Trade Agreement with the U.S. ". . . we could lose half a million jobs." (*Commons Debates*, pages 4178 to 4181, March 16, 1987.) The Economic Council's study 344 has done a calculation of how many fewer jobs the Canadian economy would create between now and December 1998 if we did not sign the Free Trade Agreement and the U.S. took the protectionist measures we fear. The figure is 22,000 jobs—23 times less than the half a million job loss Ms. Carney threatened us with.

Proof (5.2) Without the free trade deal, each Canadian would have 8.6 cents less per day, 11 years from now.

[Senator Gigantès.]

"Venturing Forth", page 18, shows that, if we did not sign the Free Trade Agreement and the U.S. took protectionist measures against us, (Simulation 5), by 1998 our economy would be smaller by two thousandths—that is, by two tenths of 1 per cent—than it would be with the Free Trade Agreement. Study 344, page 69, shows that in 1998 the GDP, our gross domestic product—that is, the size of our economy—will be some $448.089 billion in 1981 dollars. Two thousandths or two tenths of 1 per cent of that is $896.178 million. If we divide that sum by the 28.6 million Canadians Statistics Canada says will be our population in 1998, and by 365 to arrive at the loss per day, we see that in 1998 each Canadian woman, child and man will have 8.6 cents less per day, if we do not go ahead with the Mulroney trade deal and the Americans turn very protectionist against us.

Proof (5.3) The free trade deal, FTA, will give us only one third of the jobs the Mulroney government originally predicted.

The Honourable Pat Carney, as Minister for International Trade, forecast that, thanks to the FTA, "370,000 jobs could be created in the next five years." (*Commons Debates*, pages 4178 to 4181, March 16, 1987.) She was using the Economic Council's Study 331, based on Mr. Mulroney's wish list.

Senator Hastings: Is that "could" or "would"?

Senator Gigantes: "Could". C-o-u-l-d. Check it, you will see that I am right. But the Economic Council's Study 344, based on the actual text of the Free Trade Agreement, set the net, new jobs to be created by the FTA at 251,000 in 11 years. Of the 251,000 jobs in 11 years, more than half are for clerks, sales persons and the like and few are in high tech. This figure of 251,000 in 11 years means 114,000 in five years, or less than a third of the 370,000 Ms. Carney originally promised.

The authors of the Economic Council's two studies on the impact of the free trade deal say that the job figures changed from their first to their second study because the actual Free Trade Agreement contained far fewer goodies for Canada than had been on the Mulroney wish list. Here is what the Economic Council says about how tough the Yankee traders were in the FTA negotiations: "In the earlier study, a hypothetical, comprehensive, bilateral free trade agreement between Canada and the United States was simulated . . . It was assumed that all of the existing trade barriers (except subsidies) between the two countries would be removed. But under the agreement signed in January, most of the non-tariff barriers will remain intact . . . Our calculations indicate that only about 25 per cent of the existing non-tariff barriers are removed under the Free Trade Agreement. Similarly, the impact of the agreement on federal government procurement is substantially smaller in scope than the one assumed in Discussion Paper 331 . . . Under the Free Trade Agreement, Canada has been excluded from bidding for large U.S. government purchases in aircraft and components, ships, communications equipment and electrical and electronic equipment components." ("Venturing Forth", Economic Council, pages 39-40).

Proof (5.4) The rate of job creation under the Mulroney trade deal is slower than even during the 1974-1984 years of explosions in oil prices, hyper-inflation, sky-high interest rates, the deep recession that began in 1981 and massive unemployment.

On page 70 of the Economic Council's Study 344 we are told that the 251,193 net, new FTA jobs represent 1.8 per cent of the total jobs that will exist at the end of 1998.

Facing page 32 of my text you will see photostats of the tables of that study. With the permission of the Senate, I would move that these tables be printed as an appendix.

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

Hon. Senators: Agreed.

(For text of tables, see Appendix "B", p. 4081.)

Senator Gigantès: If the figure 251,193 is 1.8 per cent, we can obtain what 100 per cent is by multiplying 251,193 by 100 and dividing it by 1.8. A math whiz researcher at the Library of Parliament vouches for this. Thus, 100 per cent is 13,955,-167, to which one must add 251,193 to obtain 14,206,360. I would draw the attention of honourable senators to a regrettable error. After the figure 251,193, I have in parentheses "plus 2.5 per cent", but, actually, it should be "plus 1.8 per cent", and 14,206,360 is plus 1.8 per cent. So, the number of people who will be employed in Canada in 1998, if the Mulroney-Reagan trade deal is in operation, will be 14,206,360.

We know from Statistics Canada, "Canadian Economic Observer", that 11,955,000 Canadians were employed on January 1, 1988. We can work out at what rate employment will have grown per year and on average between January 1, 1988, and December 31, 1998, by using the formula: C = A time (1 + i) to the eleventh power. The aforementioned math whiz also vouches for this.

So, C = 14,206,360 = 11,955,000 times (1 + i) to the eleventh power, where (i) stands for the yearly rate of growth. The result is that, thanks to the Free Trade Agreement, we shall have an average annual growth rate in jobs of 1.58 per cent over the 11 years ending December 31, 1998—1.58 per cent!

● (1640)

By the use of the same formula, and with Statistics Canada figures, we can find the average annual growth rate in jobs for the 11 years from 1974 to 1984 inclusive, years which, as I have said already, saw huge jumps in oil prices, hyper-inflation, sky-high interest rates and the worst business down-turn since the Great Depression, with massive unemployment. Without a free trade agreement, in those 11 years, 1974 to 1984, the average annual growth rate in jobs was 1.7 per cent—more than the free trade deal is expected to give us.

Those two 11-year periods, by the way, 1974 to 1984 and 1988 to 1998 inclusive, are comparable, because the population in the next 11 years is projected to grow at 1 per cent per year, the rate at which it grew between 1974 and 1984.

Proof (5.5) The Mulroney trade deal will see a decline in personal incomes by the time it is fully in place in 1998.

On page 69 of the Economic Council's Study 344, we are told that Canada's gross domestic product, the GDP, will be bigger in 1998 by $10.929 billion, or 2.5 per cent, than it would have been without the Mulroney trade deal.

To make these figures clearer for readers or for honourable senators who do not have economics as their hobby, the GDP is the sum total of all the goods and services we produce. If we divide the GDP by the population, we get the gross domestic product per capita or per person. This is often used as a measure of how citizens are faring relatively as between one country and another or one period and another.

It stands to reason that this is a key economic measure. If the GDP per capita is falling—after inflation—chances are that consumer spending is falling and that, consequently, investment in new plant is falling, government revenues are falling, and there is less money to pay for Medicare, pensions and child care. The reverse is likely if GDP per capita is rising. Here is what the Economic Council's projections about our 1998 gross domestic product mean:

If $10.929 billion is 2.5 per cent of the 1998 base case GDP, that is, the GDP without the Free Trade Agreement, then that GDP is projected to be $437.160 billion. The GDP with free trade will be $448.089 billion, that is, 437.160 plus 10.929. The figures given in the Economic Council's Study 344 are all in 1981 dollars, which means that inflation has been factored out.

Now, still in 1981 dollars, Statistics Canada tells us that our GDP on January 1, 1988, was $431.596 billion. This is from the "Canadian Economic Observer", June 1988, table 1.3 Let us resort again to the formula C = A times (1 + i) to the eleventh power, where C = 448.089, A = 431.596, and (i) = the average annual rate of growth of the GDP. We find that our gross domestic product between now and the end of 1998 will have grown at an annual average rate of 3.4 tenths of 1 per cent, thanks to the FTA. These are the government figures. This is from the study that Mr. Crosbie waves in the air and that Ms. Carney used to wave before.

Our population is projected to grow not by 3.4 tenths of 1 per cent per year but by a whole 1 per cent per year between now and 1998. Hence, our GDP per capita will decline. In 1981 dollars, the projected GDP for 1998 is $448.089 billion. Divided by the 1998 projected population of 28.6 million Canadians, this gives us a GDP per person of $15,667 in 1998. These are 1981 dollars. Inflation has been factored out. This is nearly $1,200 less than our GDP per person on January 1, 1988, which Stats Can says was $16,843—1981 dollars in all cases.

I have a technical point to make. Lest anyone argue—and someone has tried—that the Economic Council is not talking of gross domestic product calculations that are "expenditure based", but are "factor cost" based, he can check the Council's publication "Venturing Forth", page 17, where the second paragraph makes it clear that their calculations were expendi-

ture based and not factor cost based. This point is technically important, because, otherwise, the figures would be substantially different, both up and down. "Venturing Forth" says: "Our new Simulation 2, which we consider the most likely outcome (shows) that . . . in 1998 . . . real GNE (gross national expenditure) is about 2.5 per cent higher than its base case level . . ."

To put these figures in perspective, in the 11 years, 1974 to 1984, with the two price explosions in oil and the biggest economic down-turn since the Depression of the 1930s, Canada's GDP grew at an annual rate of 2.3 per cent, after allowing for inflation; 6.8 times faster, that is, than the Economic Council predicts the economy will grow under the trade deal signed by Messrs. Mulroney and Reagan.

From 1974 to 1984 our GDP per capita—per capita means per person—grew from $12,341 to $15,036 per year. The 1984 GDP of $15,036 is almost equal to the $15,667 our GDP per capita will be in 1998, 11 years after the signing of the Mulroney trade deal, all in 1981 dollars.

Proof (5.6) Mr. Mulroney did not get a "better deal". Yet he signed it even though he said he would only sign a "better deal".

Mr. Mulroney told the New York *Times*—this bears repeating all the time—on April 3, 1987, "There were several vital conditions the (trade agreement) would have to meet. Most important among these, Mr. Mulroney said, is that Canada must be permanently exempt from the U.S.'s fair-trading laws." This permanent exemption was his most important vital condition and Mr. Mulroney did not get it.

What he got, according to projections he uses and publicizes, is a gross domestic product per capita, in 1981 dollars, that will decline from $16,843 today to $15,667 in 1998, and a rate of job creation slower than in our worst post-war decade. That is not a better deal, as Mr. Mulroney himself defines a better deal.

He said that "if our negotiations do not result in a better deal for Canada, there will be no deal." (This is the Honourable Pat Carney quoting the Prime Minister, *Commons Debates*, page 255, October 9, 1986.)

Therefore, honourable senators, proposition (5) has been proven, that: Economic forecasts used by Mr. Mulroney to sell his deal predict not prosperity but decline, with the loss of $1,200 in income for every Canadian by 1998, after the FTA is fully in place. Even so, Mr. Mulroney signed this deal, which was not "better". Yet, according to these self-same forecasts, the risks of not signing it were minimal: a loss of 8.6 cents per day per Canadian in 1998 and a loss of 22,000 jobs over 11 years.

In a subsequent speech I will give you proposition (6), "We paid far too much for what we got in this deal"; (7), "There was a better alternative"; and (8), "We were misled every step of the way."

Honourable senators, thank you for your patience.

• (1650)

Hon. Stanley Haidasz: Has the honourable senator completed his speech?

Hon. C. William Doody (Deputy Leader of the Government): Is the honourable senator finished now?

Hon. Gildas L. Molgat: Will the honourable senator continue at the next sitting?

Senator Doody: The question was asked whether Senator Gigantès would be going on later.

Senator Molgat: Unless he adjourns the debate, he will be unable to speak again.

Senator Gigantès: I will proceed later.

Senator Molgat: On another debate?

Senator Gigantès: Yes.

The Hon. the Speaker *pro tempore:* Honourable senators, if no other senator wishes to speak, this inquiry is considered as having been debated.

[*Translation*]

UKRAINE

MILLENNIUM OF CHRISTIANIZATION—NOTICE OF INQUIRY

Permission having been granted to revert to notices of inquiry:

Hon. Stanley Haidasz: Honourable senators, I give notice that on Friday next, 22nd July, 1988, I will call the attention of the Senate to the historic event of the Millennium of the Christianization of the people in Ukraine.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p.* 4057)

IMMIGRATION ACT, 1976

BILL TO AMEND—REVISED MESSAGE FROM COMMONS
—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS
AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS
—REPORT OF STANDING SENATE COMMITTEE
ON LEGAL AND CONSTITUTIONAL AFFAIRS

WEDNESDAY, July 20, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-FIFTH REPORT

Your Committee, to which was referred the motion of the Honourable Senator Nurgitz, dated June 28, 1988 relating to certain amendments to Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, has, in obedience to the Order of Reference of Thursday, July 14, 1988, examined the said motion and now reports as follows:

Your Committee recommends that the Senate concur in the amendments made by the House of Commons to its amendments 1(*b*), 3, 4, 9(*a*) and 11 to the Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof;

That the Senate do not insist on its amendments 1(*a*), 2, 5, 6(*a*), 7, 8, 9(*b*) and (*c*), 10, 12(*a*) and (*b*);

That the Senate agree to the further amendments made by the House of Commons to clauses 14, 18 and 29; and

That the Senate agree to the further amendment made by that House, adding a new clause after line 31 on page 56.

Although the Committee is recommending to the Senate that the motion be adopted, we continue to be concerned that the protections afforded to claimants who are to be returned under the safe country provisions are inadequate. Consequently, we communicated our concerns once more to the Minister, who has responded that she understands the significance of the protections required and wishes to allay the fears that have been expressed.

Our dialogue has resulted in a letter from the Minister to the Leader of the Government in the Senate which reads as follows:

Senator the Honourable Lowell Murray, P.C.
The Senate
Ottawa, Ontario
K1A OA4

Dear Senator Murray:

There continues to be some concern that the recent amendment, in the House of Commons, of the proposed section 48.01(1)(*b*) [Bill C-55] of the Immigration Act, 1976, would not provide the refugee claimant with adequate protection against "going into orbit". Some observers doubt that the language of the Bill makes it clear enough that a person who is returned to a third country could go into and remain in the country to which he or she would be sent from Canada. The proposed subparagraph (ii) of that section requires that the claimant would be ineligible to pursue a claim in Canada if he or she were of a class of persons who, inter alia, "would be allowed to return to that country".

The Department of Justice has given an opinion that that phrase would provide for the person being allowed in, under whatever status the country may choose to give. Nonetheless, I have considered a means of alleviating the concern without jeopardizing the Bill. I am prepared to propose a Miscellaneous Statute Law Amendment that would amend the words I quoted above, by substituting "would be given lawful authority to be in that country".

Since these words would not change the substance of the provision and since we could expect that the change would be acceptable to all parties in both Houses of Parliament, I am confident that such a change could be made quickly, either later in this session, or in the fall. Implementation of Bill C-55 is not likely to occur before four to six months after Royal assent. Therefore it would not be difficult to have this change assented to and ready for proclamation concurrently with Bill C-55.

Should the Parliamentary schedule not accommodate passage of a Miscellaneous Statute Law Amendment Act by the date of proclamation of Bill C-55, or if objections are raised in the consideration of such a Bill, case presenting officers will be instructed to argue that persons who would not be given lawful authority to be in a third country can not be returned there. Further, adjudicators and Refugee Division members will be informed of the legal opinion of the Department of Justice. This policy will ensure that no claimant is put at risk in the interim.

I am advised that no further work on the implementation of Bill C-55 can be done until the Bill is passed by Parliament and receives Royal assent. I can see no reason to delay approval of Bill C-55, or of Bill C-84.

Yours sincerely,

Barbara McDougall

The Committee welcomes the Minister's commitment and accepts the proposed amendment, which we believe will offer the increased protection that is necessary in order to avoid putting refugee claimants at risk. With this amendment, the Committee understands that the possibility of claimants being returned (for example, to the transit lounge of an airport) to a "safe country", from where they might be quickly sent elsewhere, is greatly diminished. The Minister also promised that, if difficulties arise in the amendment of the law, she would instruct case presenting officers to argue that persons who would not be given lawful authority to be in a third country can not be returned there. As she has stated in the above-quoted letter, "This policy will ensure that no claimant is put at risk in the interim".

The Committee is pleased that the Minister is equally concerned that the provision be clarified so that refugee claimants are not put into "orbit". As she stated in the House of Commons on 3 June 1988:

> "this provision will not be used to put people in orbit between countries, as we want assurances that the people we send to third countries will be accepted there or will have access to that country's refugee determination system."

It is with this understanding that the Committee recommends adoption of the motion.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

APPENDIX "B"

(*See p.* 4077)

CANADA-UNITED STATES FREE TRADE AGREEMENT

PROSPECTS OF CANADIAN ECONOMY

Table 16

Difference in Projected GDP Between the Base Case and Simulation 2, Canada-U.S. Free Trade Agreement, by Province, Long-Term Solution

	Newfound-land	Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskat-chewan	Alberta	British Columbia	Canada(1)
					(Millions of 1981 $)						
Total difference	146	35	236	218	2,392	3,731	445	474	1,837	1,354	10,929
Primary industries	12	3	14	8	62	99	29	96	376	84	805
Manufacturing											
Durables	1	0	4	6	89	200	16	8	41	99	463
Nondurables	14	4	15	22	173	250	37	15	39	86	656
Construction	40	8	49	49	473	607	68	96	395	264	2,070
Services	78	20	154	132	1,595	2,575	295	260	985	821	6,935
					(Per cent)						
Total difference	2.70	2.88	2.61	2.57	2.46	2.31	2.63	2.74	2.74	2.64	2.50
					(Percentage Points)						
Contribution of:											
Primary industries	0.22	0.27	0.15	0.09	0.06	0.06	0.17	0.55	0.56	0.16	0.18
Manufacturing											
Durables	0.02	0.01	0.05	0.07	0.09	0.12	0.09	0.05	0.06	0.19	0.11
Nondurables	0.27	0.30	0.17	0.27	0.18	0.15	0.22	0.08	0.06	0.17	0.15
Construction	0.75	0.64	0.54	0.58	0.49	0.38	0.40	0.55	0.59	0.51	0.47
Services	1.45	1.66	1.70	1.56	1.64	1.59	1.75	1.50	1.47	1.60	1.59

1 Includes Yukon and the Northwest Territories.

Source Economic Council of Canada

Table 17

Difference in Projected Employment Between the Base Case and Simulation 2, Canada-U.S. Free Trade Agreement, by Province, Long-Term Solution

	Newfound-land	Prince Edward Island	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskat-chewan	Alberta	British Columbia	Canada(1)
					(Number of persons)						
Total difference	4,029	899	6,679	6,095	58,077	94,845	11,747	8,579	30,584	28,886	251,193
Primary industries	229	115	554	247	1,531	2,917	503	1,013	3,996	1,673	13,106
Manufacturing											
Durables	12	0	124	181	1,546	2,455	204	86	416	1,704	6,727
Nondurables	398	81	252	373	3,045	4,727	733	329	892	1,267	12,098
Construction	872	218	1,145	1,036	8,668	11,176	1,581	1,527	7,142	4,034	37,454
Services	2,517	484	4,605	4,258	43,287	73,570	8,726	5,625	18,139	20,208	181,808
					(Per cent)						
Total difference	1.95	2.02	1.88	1.93	1.75	1.70	1.97	1.93	2.08	1.83	1.80
					(Percentage Points)						
Contribution of:											
Primary industries	0.11	0.26	0.16	0.08	0.05	0.05	0.08	0.23	0.27	0.11	0.09
Manufacturing											
Durables	0.01	0.00	0.03	0.06	0.05	0.04	0.03	0.02	0.03	0.11	0.05
Nondurables	0.19	0.18	0.07	0.12	0.09	0.08	0.12	0.07	0.06	0.08	0.09
Construction	0.42	0.49	0.32	0.33	0.26	0.20	0.27	0.34	0.49	0.26	0.27
Services	1.22	1.09	1.30	1.35	1.31	1.32	1.46	1.26	1.23	1.28	1.30

1 Includes Yukon and the Northwest Territories.
Source Economic Council of Canada

From: Economic Council of Canada, Discussion Paper no. 344, pp. 69-70.

THE SENATE

Thursday, July 21, 1988

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

Prayers.

OFFICIAL LANGUAGES BILL C-72

REPORT OF SPECIAL COMMITTEE

Hon. Dalia Wood, chairman of the Special Committee of the Senate on Bill C-72, presented the following report:

Thursday, July 21, 1988

The Special Committee of the Senate on Bill C-72 has the honour to present its

FIRST REPORT

Your Committee, to which was referred Bill C-72, An Act respecting the status and use of the official languages of Canada, has, in obedience to the Order of Reference of Thursday, July 14, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

DALIA WOOD
Chairman

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, in view of the fact that Royal Assent is planned for this afternoon, I would ask leave to give the bill third reading now.

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

Hon. Royce Frith (Deputy Leader of the Opposition): No, honourable senators. I want to make a speech on third reading of this bill and I am not ready to do so today; I intend to do so on Tuesday. Therefore, I would suggest that this be adjourned until Tuesday next, when I expect it will get third reading.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Frith, seconded by the Honourable Senator Argue, that this bill be placed on the Orders of the Day for third reading on Tuesday next.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Frith, bill placed on the Orders of the Day for third reading on Tuesday next, July 26, 1988.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, it is my hope that, as we proceed today with second reading of various bills and third reading of at least one bill, we will be in a position to have Royal Assent later this afternoon and then adjourn until Tuesday next.

With that in mind, I ask leave to revert to Notices of Motions later this afternoon.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, earlier today the Deputy Leader of the Government and I discussed what legislation on our order paper could receive Royal Assent today. I believe we are agreed on the legislation that should get Royal Assent today and we have settled on a procedure for doing so. We have agreed that second reading debate on some bills will be completed today and that they will be referred to committee. We have also agreed that some other matters will go over until Tuesday.

Senator Doody's request that we follow that plan is quite reasonable.

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

Hon. Senators: Agreed.

QUESTION PERIOD

TIBET

DALAI LAMA'S FIVE-POINT PEACE PLAN AND NEW INITIATIVE—GOVERNMENT POSITION—REQUEST FOR ANSWER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I asked a question in June about Tibet.

Senator Flynn: This year?

Senator Frith: Yes, this year. The Leader of the Government gave me quite a prompt answer. I then asked a supplementary question arising from a declaration made by the Dalai Lama. The leader took that as notice. I wonder if he will put a tracer on that. It is not something I need for a speech today, but if he could give me an answer next week I would appreciate it, for reasons I will not go into now.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I thank the honourable senator for reminding me of this and I shall make inquiries.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to three questions: one from June 14, by Senator Bonnell, regarding Veterans Affairs—Eligibility and Criteria for War Veterans Allowance; a question of the same date by Senator John Stewart and also by Senator Fernand Leblanc, regarding The Government—Legislative Provision for Expenditures, which I believe also relates to Veterans Affairs; and from July 21, a question asked by Senator Olson regarding Economic Summit, 1988—Agricultural Subsidies—Request for Progress Report.

If honourable senators agree, I will ask that these answers be printed as part of today's proceedings.

Hon. Earl A. Hastings: Did you say July 21?

Senator Doody: It says July 21 here. If you think that is too prompt, senator, you are probably right. I will have to check this. There is a slight error in the transposition. It is June 21. Thank you, senator. You had me worried for a minute. I thought we were getting efficient!

VETERANS AFFAIRS

ELIGIBILITY AND CRITERIA FOR WAR VETERANS ALLOWANCE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 14 last by the Honourable M. Lorne Bonnell, regarding Veterans Affairs—Eligibility and Criteria for War Veterans Allowance

(*The answer follows:*)

The means test for determining eligibility for War Veterans Allowance is, in fact, a "modified income test". In this test a person's assets (for example the value of real assets such as a house or automobile and liquid assets, such as cash and bonds) do not affect the rate of Allowance, although income derived from assets may have an effect. After taking into account certain exemptions, the War Veterans Allowance is decreased dollar for dollar by income from other sources. The exemptions include any income received by dependent children, interest income up to $140 per year and earnings income of up to $2,900 annually for single recipients and $4,200 for married recipients. Present single and married War Veterans Allowance ceilings are shown below.

Category	Ceiling
Single rate	$ 755.25 monthly
Married rate	$1146.71 monthly

THE GOVERNMENT

LEGISLATIVE PROVISION FOR EXPENDITURES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators I have a delayed answer in response to questions asked in the Senate on June 14 last by the Honourable John B. Stewart and the Honourable Fernand-E. Leblanc, regarding The Government—Legislative Provision for Expenditures.

(*The answer follows:*)

Authority for the Veterans Independence Program and Treatment benefits is currently found in the Veterans Care Regulations and Veterans Treatment Regulations, both under the Department of Veterans Affairs Act.

Extending eligibility to Canada Service Veterans (Canada Service Only) would require a change to these Regulations and not a Bill in Parliament. While the Government has approved the extension of eligibility to Canada Service Veterans the specific regulatory amendments will be presented to the Governor-in-Council for approval shortly, once a practical effective date has been decided upon and other essential administrative details worked out.

The table below shows the estimated caseload and program costs of the extension for the next five years. It is based on the assumption that January 1, 1989 is the effective date and is shown in current (indexed) dollars. Financial resource allocation, once initially approved, is subject to Appropriations through the normal Main Estimates process in the same way as other continuing programs.

	88/89	89/90	90/91	91/92	92/93	Totals
Caseload	3,000	13,000	14,000	15,000	16,000	N/A
$ millions	8.0	37.0	42.0	49.0	61.0	197.0

ECONOMIC SUMMIT, 1988

AGRICULTURAL SUBSIDIES—REQUEST FOR PROGRESS REPORT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on June 21 last by the Honourable H.A. Olson, regarding Economic Summit, 1988—Agricultural Subsidies—Request for Progress Report.

(*The answer follows:*)

The Toronto Summit Economic Declaration indicates how the Leaders view the problems of agriculture; their actual discussions on the subject are confidential and there is therefore no official record of them.

Some parts of the Economic Declaration should be highlighted. The Leaders reaffirmed their commitment to implement more market-oriented agricultural policies to encourage structural reform. They insisted that negotiations must develop a framework approach, which includes short-term and long-term elements, in order to advance

the negotiations on agriculture which are presently being conducted in the Uruguay Round of the GATT. They noted that use of a device to measure support and protection would facilitate progress in the Multilateral Trade Negotiations (MTN). They underlined the importance of the Montreal Mid-Term Review meeting in December 1988 as an occasion to give further impetus to these negotiations and noted that it is vital to ensure the momentum of the negotiations. With respect to the trade negotiations in general, and this obviously relates to agriculture, leaders urged that "the greatest possible advance must be made in all areas of the negotiations, including, where appropriate, decisions, so as to reach before the end of the year the stage where tangible progress can be registered". Leaders added a reiteration of their commitment to ensure that the Mid-Term Review establishes a solid base for the conclusion of the Uruguay Round negotiations.

Summit leaders also emphasized the OECD's increased emphasis on structural adjustment and development in the rural economy. They suggested that more market-oriented agricultural policies should assist in the achievement of important objectives such as preserving rural areas and family farming, raising quality standards and protecting the environment.

This Summit statement advances the commitments taken at the May 1988 OECD Ministerial Meeting, with respect to the reform of agricultural policies, to the need to register progress in the MTN by year-end in agriculture and to the need to consider how best to ensure the development of the overall rural economy.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Royce Frith (Deputy Leader of the Opposition): I have been asked by Senator van Roggen, who has been ill and unable to be here for the last few weeks, to propose the following motion.

With leave of the Senate and notwithstanding rule 45(1)(*a*), I move:

> That the Standing Senate Committee on Foreign Affairs have power to sit while the Senate is sitting on Tuesday and Wednesday next, 26th and 27th July, 1988, and that rule 76(4) be suspended in relation thereto.

Hon. C. William Doody (Deputy Leader of the Government): I just wanted to say that, because of the ongoing quorum problem, it may not be possible for all of our members to be there at all of these meetings all of the time. I am sure that Senator van Roggen will understand if some of the people on this side do not attend all of the meetings all of the time. At this point the only reason is the difficulty in keeping a quorum while the Senate is sitting.

Senator Frith: I agree, honourable senators. We might have problems on both sides if we are very busy here in the chamber. I should also say that there is a possibility that Senator van Roggen will not be able to be here next week. They are still discussing the possibility of changing the committee meetings, in any event.

Senator Flynn: Might as well cancel them.

Senator Frith: The reason he asked me to put this motion forward is that he wants us to have the possibility—in fact, the probability—of going on.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, we were all aware that the hard-working chairman of the Standing Senate Committee on Foreign Affairs and his hard-working colleagues had planned a series of meetings in the weeks ahead.

Senator Frith: And witnesses.

Senator Murray: I am told some 30 witnesses were due to appear, all in the interests of studying, if not the Free Trade Bill, which honourable senators refuse to send to the committee for pre-study, then at least the Free Trade Agreement.

● (1410)

My honourable friend, the Deputy Leader of the Opposition, tells us now that it is possible that the chairman, Senator van Roggen, will not be here next week and that consideration is being given to rescheduling some of the meetings.

Does he know whether Senator van Roggen and his colleagues on the committee have given any thought to the utility or futility of this whole committee exercise? I say that on behalf of the 30 witnesses who have been invited to appear, supposedly to give their best wisdom and advice on the Free Trade Agreement. We have had, as of yesterday, an instruction to Liberal senators from the Right Honourable John Turner that they are to block the Free Trade Bill in this place, and the apparent statement of compliance on behalf of Liberal senators by the Honourable the Leader of the Opposition.

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

Hon. Senators: Agreed.

Motion agreed to.

IMMIGRATION ACT, 1976

BILL TO AMEND—REVISED MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS TO BILL C-55—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Neiman, seconded by the Honourable Senator

Molgat, for the adoption of the Twenty-Fifth Report of the Standing Senate Committee on Legal and Constitutional Affairs (motion relating to amendments to Bill C-55, An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof), presented in the Senate on 20th July, 1988.—(*Honourable Senator Hébert*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, just so we can follow, is it correct that the Honourable Senator Hébert will be speaking to both Orders No. 1 and No. 2—that is, Bill C-55 and Bill C-84—as the previous speakers did?

Hon. Jacques Hébert: That is correct.

Senator Frith: Then, Order No. 2 should also be called.

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND FOR NON-INSISTENCE UPON SENATE AMENDMENTS TO BILL C-84—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Neiman, seconded by the Honourable Senator Molgat, for the adoption of the Twenty-Sixth Report of the Standing Senate Committee on Legal and Constitutional Affairs (motion relating to amendments to Bill C-84, An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof), presented in the Senate on 20th July, 1988.—(*Honourable Senator Hébert*).

[*Translation*]

Hon. Jacques Hébert: Honourable senators, for several days now, I have been grappling with a serious problem of conscience. How could I accept the decision of the Committee on Legal and Constitutional Affairs—of which I am proud to be a member—if I am still convinced that Bill C-55 could imperil the life of even a single refugee? I realize that we fought a good fight over the past few months, a fight of whose various stages we were reminded yesterday by the chairman of the committee, the Honourable Senator Neiman, and by my colleague the Honourable Senator Grafstein, when they addressed us. I also realize that non-elected legislators must sooner or later bow to the stubborn determination of the elected legislators, leaving it up to the people to elect different ones the next chance they get.

Nonetheless, I belong to a house whose legitimacy cannot be questioned, since it was confirmed by the 1982 Constitution and more recently by the Meech Lake Accord, which would surely have been the ideal opportunity to curtail the Senate's all-too-extensive powers. It seems to me that on June 3, 1987, in the dampness of the Langevin Block, at 5:42 in the morning, Prime Minister Mulroney could easily have served up another round of dreadful coffee to the ten provincial premiers, already in a complete daze, and convinced them, for example, to limit the Senate's powers to a six-month suspensive veto and to make the Senate an elected body. I can mention this idea without a qualm because it happens to be my party's official policy.

But since nothing was done in 1982, or in 1987, the Senate remains until further notice a legitimate parliamentary institution whose members have enormous powers, tempered only by the respect we all share for the fundamental principles of democracy, which prevent us from abusing those powers.

I sometimes think that in order to provoke the reforms that everybody claims to want, but are forever postponed, we should perhaps one day bring matters to a head by exerting our powers to the full, in other words, by blocking a government bill for good and all.

Some of my colleagues believed for a while that Bill C-22 would have been a good one to try this on. I did not agree with them, for one thing because the opinions of the witnesses we heard were divided, and for another because it was simply a question of money. My Liberal colleagues predicted that the price of drugs would increase, and events have proved them correct: certain pharmaceutical products cost 150 percent more today than they did before Bill C-22. So much the worse for us all!

Be that as it may, Bill C-22 was not a matter of life and death. Bill C-55 is quite another story. According to the most reliable of the many witnesses we heard, including the Inter-Church Committee for Refugees which represents practically all churches in Canada, there can be no doubt that human beings in peril of their lives, genuine refugees within the meaning of the Geneva Convention which Canada has signed, will be the victims of this infamous piece of legislation. That they will be turned back to what are claimed, by the oracles in the Cabinet, to be "safe" third countries. That they will end up in abominable prisons, where they will be tortured and where some will lose their lives.

What is the point of having an all-powerful Senate if, after what I concede was a noble fight, it resigns itself to not exercising the powers that would enable it to prevent our country from being an accomplice in such abominations?

What is the point of having listened to the most competent people Canada has in this field describe to us the grave dangers of this bill—not to mention its unconstitutionality—if in the end we wash our hands of it like Pontius Pilate?

What is the point of having applauded Rabbi Plaut and come out with endless denunciations of the stupidities of Bill C-55 if today we agree to make those stupidities the law of the land?

There is no doubt that if we had had the audacity to kick Bill C-55 out into the darkness where it belongs, we would have provoked what is, erroneously, called a "constitutional crisis". The great democrats in our editorial offices would have fallen on us with loud cries, that great democrat Brian Mulroney would have bleated like an affronted virgin, and the Senate might perhaps have risked its own aboliton. And so what? The death of the Senate does not seem to me more important than the death of a single innocent person somewhere in some small totalitarian country of the Third World.

But the hour is late, and I am not naive enough to think that this last-minute appeal will stop Royal Assent being given before the end of the day to a bill that is in my view the most odious piece of legislation submitted to the Senate in all my time here. The government leader may sleep in peace: he has carried the day! But I venture to believe that some of us, on both sides of this chamber, will sleep less well, tonight, and certainly the night after they hear that a Guatemalan peasant who had been turned back from Dorval to a "safe" third country has finally been returned to Quetzaltenango and butchered like a beast.

This long preamble was inspired by one of the innumerable letters I have received about Bill C-55, the most recent of them in fact. It is signed by a man I don't know, a Mr. Max Wolfe who is a lawyer in Jemseg, New Brunswick. I am going to read parts of it to you, in the hope that perhaps one of my colleagues will help me find the words to answer him:

● (1420)

[*English*]

Dear Senator:

It may already be too late but, if it is not, I urge you and your colleagues to do everything possible to delay the passage into law of Bill C-55, the Immigration Act amendment act.

We have heard much about abuses in the refugee determination system, shiploads of well-healed Sikhs on Nova Scotia shores and scams in Turkey. I do not attempt to deny any of this and I do not for one minute say that the system of refugee determination does not need a drastic overhaul. 50,000 cases awaiting the decision of the Refugee Status Advisory Committee says it all. But C-55 does not do this. Instead it uses the method of curing the headache by prescribing decapitation.

The record of the United States in dealing with Central American refugees is nothing short of disgraceful. Something in excess of 97 per cent of those that formally seek political asylum are rejected. Like us, the Americans are signatories to the 1951 Convention on Refugees. Our record has been good but this legislation will ensure that virtually all Central American refugees are kept out of the country. Their American masters must be very happy with the performance of the Mulroney government.

I have helped and will continue to help many Central American refugees come into this country. I have spoken with many of them, for the most part country people wanting nothing more than to live without the constant fear of torture and murder. These people are *bona fide* refugees. Our government regrettably is trying to repeat the history of the Mackenzie King government during the Second World War in shutting its eyes deliberately to oppression and genocide beyond our shores. You can help ensure that this does not happen.

Yours very truly,

Max M. Wolfe

[Senator Hébert.]

[*Translation*]

You will have to help me, friends and colleagues! Personally I do not have the faintest idea what to say to this man . . .

This is the first time I have had to take this tone in addressing my honourable colleagues, and I am not enjoying it. I sincerely regret having to dissassociate myself from the decision reached by my own committee, and to oppose colleagues whom I have over the past five years learned to respect and admire. But I know their spirit of tolerance, and I am sure they will accept the fact that I disagree absolutely with their intrepretation of what we have accomplished as a result of this battle that "raged so loud and long." The truth is that we have lost the battle: we would be very wrong to console ourselves with the pretence that the minister made an important concession on the issue of turning ships back on the high seas (C-84), a stupid idea of former Minister Benoit Bouchard's which current Minister Barbara MacDougall must have been delighted to jettison. Like a duchess annoyed by the yappings of a little dog, she casually tossed us a bone. "Comme c'est gentil!"

But everyone knows that despite its notoriety, Bill C-84 is not really important. What matters, what is going to put Canada into the ranks of the rich, the selfish and the mean, is Bill C-55. And the minister was very careful not to accept even the slightest amendment of consequence, even though the members of the Legal and Constitutional Affairs Committee had reduced the number and scope of their amendments to the barest minimum. If the Senate amendments had been accepted, C-55 would still have been a very bad law. Without those amendments, it is an iniquitous law, of which Canadians should be ashamed.

[*English*]

My feelings about Bill C-55 are most aptly summed up in the letter I quoted earlier, by Mr. Wolfe, wherein he states that the bill "uses the method of curing the headache by prescribing decapitation." The headache is a refugee system badly in need of overhaul; the decapitation results from the draconian measures I am about to describe—measures for which the Senate proposed medicine that we believed would have cured the patient without too many negative side effects. The minister, however, disagreed and the bill before us today is the disgraceful result.

Let me now turn in detail to some of the major defects of the bill which I feel remain because of the intransigence of the government.

The first is a claimant's right to counsel. In this country I should have thought that the ability of people to choose their own legal counsel to assist and represent them would be recognized as so fundamental that the government would not take it away lightly or quickly. That is what the Senate proposed. We said: "Give claimants a reasonable period of time to arrange for their own counsel." The government said no. Instead, duty counsel will be given "an adequate time to prepare"—something that, by the way, is part of the principles of fundamental justice in any case and hardly needs to be

spelled out. What if the claimant is assigned a duty counsel he or she does not trust? What if the claimant does not feel that the counsel is truly interested in the case? The claimant will be out of luck.

Let's assume next that a Salvadorian refugee makes his way to Canada, perhaps with the help of some of the very witnesses who testified before the committee. He may be assigned counsel, as I described. He may distrust his "government" lawyer because of his experiences with his own government officials. He may be afraid that if he admits he is a refugee he will be immediately sent back to the United States or Mexico, and eventually to his own country. He may also be afraid that if word gets back to El Salvador of his flight his wife and children will be the target of reprisals. Perhaps he just does not understand the question.

Now, Bill C-55 requires that, at the very beginning of his inquiry, the adjudicator ask if the Salvadorian intends to make a claim to be a refugee. Responding to the feelings I have just listed, the man is frightened and says, "No." That simple answer—made in fear—means that he loses his right to make a claim to be a refugee. In committee we looked at that provision and thought it was not right. How can it be right that such serious consequences could follow from fear? We recommended simply that a person in that situation should be given another chance. This, too, the minister rejected. It would be an "opportunity for abuse", we were told. I wonder where the abuse will be when we return this person to El Salvador.

Next, I want to talk about appeals. There is no doubt that the new Refugeee Division will rule that some claimants are not Convention refugees. They would not be doing their job if they rubber-stamped all applications. But is there any person in this chamber who is confident that he or she could make that negative decision and never make a mistake? Surely, in no other area do we pretend that decision-makers are never going to get it wrong. When we looked at Bill C-55 we found that the drafters had not paid sufficient attention to this simple fact of life. We suggested that the Federal Court of Appeal should have the power to examine the merits of the decision—to ask the question: "Did they get it right?"

Again, the government said no. It was a "fundamental principle", we were told, that there be "one high-quality hearing on the merits of the claim." I should like to know the source of this "principle".

● (1430)

Finally, I turn to the most controversial area of all—the safe third country. I have spoken at length about this part of the bill. In fact, the last time I spoke it was with pleasure and positive feelings about the work we had accomplished in committee. I truly felt that we had "got it right" and that the government would see that our changes were reasonable and appropriate. In retrospect, I suppose that I was merely naive. Nothing so simple and straightforward as a safe country being "willing to receive" the claimant was acceptable to the government. Instead, what we got was a hodge-podge of verbiage that is incomprehensible to lawyers and laymen alike.

"Where is the protection?" we asked the minister. In reply, we received a letter saying that one further amendment would be made to the section at a later date, if only we would hurry up and pass the bill. I realize that a number of my colleagues genuinely believe that the promised amendment improves the bill and allays their concern.

As for myself, I remain unconvinced. When I put the old version beside the new version I see little, if any, difference. And in French they are virtually identical. Indeed, a careful reading of the minister's letter shows that she, too, believes that there is no substantive difference, but is willing to propose the amendment if it will keep us happy. Well, I want it on the record that I am not happy.

I could go on longer, because there are other important changes that should have been made to this bill, but were not, yet I think my point is clear: This bill is nothing that I feel proud of. That is an understatement. Correction: I am ashamed of this bill! Yes, we made some changes to Bill C-55 that the government agreed to. But these changes were, in general, either minor or technical. Whenever it came to an amendment that could have had a real impact on how Canada will treat refugee claimants in the future, the government said "no."

[*Translation*]

The irony is that the minister knows, as do we all, that C-55 is going to be contested before the courts as soon as it has been proclaimed. Having tried to rectify some of the undeniable shortcomings of the bill as it stands, we are now going to vote in favour of a bill that, according to the highest authorities of several Canadian bar associations, will conflict with the Charter of Rights. We want to improve the immigration legislation, and instead we are going to paralyze the system still further and create an even worse chaos than the one we are floundering in at present.

There it is: starting this evening, we will be living in a different country from the one we were in this morning. A country where the Charter of Rights will no longer apply to people in distress who have come in all confidence to knock at the door of a Canada that until today was known throughout the world for its compassion to refugees.

I love my country, but this evening I will love it a little less.

I thought I belonged to a house with considerable, even excessive, powers. But at this moment I realize I am completely powerless. Dear Mr. Wolfe of Jemseg, New Brunswick, I truly do not know how to answer your letter. But believe me: if ever I am asked to vote, I shall vote against Bill C-55 with all my heart.

Hon. Senators: Hear, hear!

[*English*]

Senator Haidasz: Let us stand up and be counted.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Neiman, seconded by the Honourable Senator Molgat, that these reports on Bill C-55 and Bill C-84 be adopted.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

• (1440)

The Hon. the Speaker *pro tempore:* Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore:* In my opinion, the "yeas" have it.

An Hon. Senator: The "nays" have it.

Senator Haidasz: Let's stand and be counted.

Senator Argue: You do not need to be counted if the "nays" have it.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I do not know whether we want to run through this again and have the best two out of three, but with my rather meagre mathematics I counted two "nays", and the rest either abstained or said "yea."

Senator Corbin: There were three.

Senator Doody: Three "nays"; I said I had rather meagre mathematics.

The Hon. the Speaker *pro tempore:* I said that the "yeas" have it.

Senator Doody: Then, please accept my apologies, sir.

Motion agreed to and report on Bill C-55 and report on Bill C-84 adopted, on division.

CANADA-NOVA SCOTIA OFFSHORE PETROLEUM RESOURCES ACCORD IMPLEMENTATION BILL

THIRD READING

Hon. Ethel Cochrane moved the third reading of Bill C-75, to implement an agreement between the Government of Canada and the Government of Nova Scotia on offshore petroleum resource management and revenue sharing and to make related and consequential amendments.

She said: Honourable senators, during the second reading debate on this bill, Senator MacEachen raised some questions. Those questions were answered in committee; copies of the blues were sent to him and I think he is quite satisfied.

Senator Frith: Well done!

Senator MacEachen: I wish everyone over there was as intelligent as you are.

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

[The Hon. the Speaker.]

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker *pro tempore* informed the Senate that he had received the following communication:

RIDEAU HALL

Ottawa
K1A 0A1

July 21 1988

Sir,

I have the honour to inform you that the Honourable A. Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 21st day of July 1988, at 5:00 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

JEAN M. SÉVIGNY
Deputy Secretary, Operations

The Honourable
The Speaker of the Senate
Ottawa

• (1450)

[*English*]

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Orville H. Phillips moved the second reading of Bill C-126, to amend the Bretton Woods and Related Agreements Act.

He said: Honourable senators, Bill C-126 amends the Bretton Woods and Related Agreements Act in order to allow the Government of Canada to contribute to the Enhanced Structural Adjustment Facility. This is a new initiative of the International Monetary Fund to assist the poorest of the developing countries, particularly those in sub-Saharan Africa.

At present the Minister of Finance has no legislative authority to lend to a facility of this type. Passage of this bill will allow him to lend and grant funds to the Enhanced Structural Adjustment Facility Trust on behalf of the Government of Canada.

These resources will support policy reforms designed to restore balance of payments sustainability and enable these countries to maintain satisfactory economic growth.

The Enhanced Structural Adjustment Facility was initiated at the June 1987 Venice Summit. It was envisaged as a facility that would provide an additional $10 billion Canadian to eligible countries. The magnitude of the debt problem and the daunting balance of payments problems of the poorest countries make these additional resources necessary.

The Enhanced Structural Adjustment Facility will operate on the basis of two accounts. The loan account is designed to mobilize resources from industrialized countries. It will pay contributors a market rate of interest, based on long-term rates for domestic financial instruments of five major world currencies. The subsidy account is composed of grants which allow loan account funds to be on-lent to poor countries at 0.5 per cent interest per annum for ten years, with five years' grace.

Since the loan component will be a well-secured asset earning a reasonable rate of return, it will be treated as a non-budgetary requirement. The interest subsidy will be counted as official development assistance and will come from the ODA budget.

The act will authorize a Canadian contribution, financed through the Consolidated Revenue Fund, of up to $550 million over three years. It will also allow a grant of up to $250 million over the 12-year life of the trust in order to bring the interest rate on Canada's contribution down to 0.5 per cent.

Other countries have also contributed to the Enhanced Structural Adjustment Facility. For instance, Japan has pledged some $3.7 billion to the loan account and $550 million to the subsidy account. West Germany has offered some $1.2 billion in loans and a subsidy contribution of $600 million. France is to contribute a $1.3 billion loan, $1.2 billion of which will be directly lent at 0.5 per cent per annum. Italy has committed some $600 million to the loan account and a subsidy sufficient to allow its contribution to be on-lent at 0.5 per cent per annum.

In light of the needs of the poorest debtor countries, Canada should join other major industrialized countries in supporting the Enhanced Structural Adjustment Facility. Developing countries that are making difficult and necessary policy changes deserve our support as they work to put their economies on a substantive footing and promote improvements in the living standards of their people.

Hon. Senators: Hear, hear!

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I should like to ask whether the senator could provide us with the information on the United States. I did not hear whether he referred to any loan or grant from the United States. Perhaps he did and I missed it.

Senator Phillips: Honourable senators, it is my understanding that the United States is not contributing to the Enhanced Structural Adjustment Facility. Perhaps, when the matter is referred to committee, the honourable senator could pursue it further.

I inquired of the officials of the department and was advised that the United States does not contribute.

Senator MacEachen: I understand that it would be acceptable if I adjourned this debate and we had second reading and then proceeded to Committee of the Whole on this matter.

Hon. C. William Doody (Deputy Leader of the Government): That is correct, honourable senators. If it is the wish of the Senate, we will try to establish a Committee of the Whole on Tuesday next to deal with this bill.

On motion of Senator MacEachen, debate adjourned.

INDIAN LANDS AGREEMENT (1986) BILL

SECOND READING

Hon. Mira Spivak moved the second reading of Bill C-73, to provide for the implementation of an agreement respecting Indian lands in Ontario.

She said: Honourable senators, I am pleased to rise today to speak to a bill which, I believe, will help improve the situation of Indians in Ontario. I am referring to Bill C-73, a bill ratifying the 1986 Indian Lands Agreement.

Bill C-73 provides a framework for negotiation between the federal and provincial governments to implement the provisions of the 1986 Ontario-Canada Indian Lands Agreement.

After negotiations that have lasted over 25 years, Canada, Ontario and Indian associations have agreed to a new lands agreement. The significance of this agreement is that it will provide a means to resolve long-standing and deep-rooted problems that have plagued the Indian community over the years. I am referring to problems having to do with title to surrendered lands, and the minerals underlying them, situated in the province of Ontario.

Even prior to Confederation, the government had established a policy toward Indian lands and reserves. Well before the present Indian Act, legislation had been passed establishing the means by which Indians would sell or alienate their lands. This was to be done by means of a surrender to the Crown. Lands surrendered to the Crown would acquire the status of surrendered lands that the Crown could then sell, lease and so on to third parties.

At Confederation the federal government was given the authority to legislate on matters relating to "Indians and Lands Reserved for Indians". By virtue of section 91.24 of the British North America Act—now called the Constitution Act, 1867—the federal government assumed that it had proprietary rights over Indian reserve lands and, as a result, proceeded to make grants of surrendered lands to third parties.

However, in 1888 the Privy Council, in the *St. Catherine's Milling* case, upset federal policy in these matters. In that case the Privy Council decided that, although the federal government had administrative authority over Indian lands, title to these lands ultimately vested in the provincial Crown. As a result, once Indians surrendered reserve lands to the Crown, title to them reverted to the province. In 1983 the Supreme Court decision of *Gilbert Smith* confirmed the earlier 1888 Privy Council decision.

To correct this situation whereby title to lands granted by the federal government was open to challenge, the federal government entered into a series of agreements with the provinces.

In particular, the Province of Ontario recognized the anomalies created by the court decisions and willingly entered into various agreements with the federal government. The intention of the last and current agreement of 1924 was to resolve problems associated with the court cases.

● (1500)

Although the intent of the 1924 agreement was to clarify the status of land transactions prior to 1924, ambiguities in the wording of the agreement were later to create some doubt as to its applicability to land surrendered before that year. This weakness, coupled with the fact that the agreement allowed Ontario to retain 50 per cent of all revenues deriving from the minerals underlying surrendered lands—which were initially set apart for the use and benefit of the Indians—rendered the 1924 agreement unsatisfactory to all parties to the agreement.

In March 1986 the Ontario Tripartite Council, made up of federal and provincial ministers as well as Indian association leaders, agreed to a new agreement, the 1986 Indian Lands Agreement.

The 1986 agreement puts a mechanism in place to allow for negotiations involving Ontario, the federal government and individual bands. In this way, on a band-by-band basis, it is estimated that negotiations resulting in what are called specific agreements will take place over the next 10 to 20 years. Negotiations with individual bands will provide for the transfer of unsold surrendered lands to Canada for the benefit of Indians and will allow Ontario to waive its rights to royalties from the minerals on these lands. They will also provide for a separate agreement between Canada and Ontario to ratify Letters Patent issued to purchasers of surrendered lands. For Indian bands not wishing to enter into specific agreements, the 1924 agreement will continue to apply.

For many Indian bands, specific agreements will mean concrete results in terms of lands and revenues. In all, it is possible that 200,000 acres of land will be returned to Ontario Indians. It is also expected that, as part of these band-specific negotiations, the province will relinquish its interest in mineral royalties that are worth millions of dollars.

Some individual bands have already entered into negotiations with a view to arriving at specific agreements. Negotiations with the Nipissing Band concerning the return of 34,000 acres of unsold surrendered lands are nearing completion. The Sarnia Band is also anxious to conclude a specific agreement, since it is expected that the province will relinquish to the band its interest in about $5 million in royalties now being held for Ontario by the Department of Indian Affairs and Northern Development.

It is, however, the overall implications of the agreement on the Indian community about which I am particularly happy. Although an increased land base and greater revenues are of considerable interest, the potential for greater economic development on Indian reserve lands, which would lead to greater economic self-sufficiency, is even more exciting. Given that the movement towards Indian self-government can only be strengthened by increased self-sufficiency, I can only label these measures as extremely positive.

The Ontario legislature will also have to ratify the Indian Lands Agreement. Although it introduced legislation in December 1986, the interruption of the legislature due to the elections in that province means that legislation will have to be reintroduced in the provincial legislature.

The House of Commons has passed this bill, and I hope that it will receive speedy passage through the Senate as well.

Hon. Senators: Hear, hear!

Hon. Len Marchand: Honourable senators, I want to thank Senator Spivak for her explanation of Bill C-73. In the strictly legislative sense, this bill does not really legislate anything. Through this bill, we are ratifying an agreement that has already been reached. The purpose of Bill C-73, as was so adequately pointed out by Senator Spivak, is to confirm and ratify a bilateral agreement between Canada and Ontario. This particular agreement is known as the 1986 Indian Lands Agreement, and the agreement was appended to Bill C-73.

Certain Indian bands that may benefit from this particular legislation are anxious that it go forward. Some of the other bands in Ontario and some of the organizations in Ontario may not be too anxious, but, nevertheless, I do not think we should unduly delay the passage of this bill. As Senator Spivak pointed out, the Legislature of Ontario must also pass similar legislation. If we could pass this legislation at this time as quickly as possible, we might encourage Ontario to pass equivalent legislation.

I do not want to take the time of the Senate now, but one day we should take a long, hard look at the events that have led to the necessity of passing Bill C-73. Behind all of the nice words we hear in relation to this bill there is a trail of broken promises and a trail of unfair dealing, but most of all a large trail of sadness and hardship left behind in many Indian communities in Ontario.

In 1924 large tracts of land were alienated from the Indian people of Ontario. I do not know all of the background, but I suppose it was decided that Indians had too much land and the government of the day had to take it away. When these lands were seized in 1924, they were turned over to the Province of Ontario.

Honourable senators, if we looked across the country, we would find in Saskatchewan, in Manitoba, in Alberta and in British Columbia a lot of broken treaty promises; we would find a lot of unfulfilled treaties. In British Columbia we would see the cut-off lands that were taken away from many bands in British Columbia in 1916. I am sure that in those provinces you would find the same trail of hardship among bands that lies behind this particular legislation in the province of Ontario.

I propose that we give this bill second reading and send it to committee for some further clarification by officials and per-

haps by the minister. I believe that it should go to the Standing Senate Committee on Social Affairs, Science and Technology.

Honourable senators will recall that on one previous occasion Senator Watt proposed that there should be a special Senate committee established to deal with the many aboriginal issues present in Canada today. Later the Special Committee on Canadian Youth recommended that there should be a standing committee established to deal with the many aboriginal issues that are outstanding today. Honourable senators, that is the type of Senate committee that I would favour. I favour the establishment of a standing Senate committee to deal with aboriginal issues. I believe that the issues behind Bill C-73 are of the type that should be dealt with by a standing committee on aboriginal issues.

This is but one issue that could be dealt with by such a Senate committee. I hope that some time in the near future—as soon as possible—the Senate will see its way clear to establishing a standing committee on aboriginal issues so that we can get behind many of these issues and clarify them for the public and for the government so that it can set government policy on them.

• (1510)

Most honourable senators are well informed on political issues, but do not know very much about what is behind the issues that Bill C-73 addresses; and the Canadian public is even less informed on these issues. I suggest that the Senate can do the job, that the Senate has the talent, the time and the commitment to start dealing with some of these issues.

I see Senator Hastings across the way is listening intently. Senator Hastings is one of the foremost experts in the Senate on parole. There are many of my people in penal institutions—a number far out of proportion to the rest of the population in this country, and that is just another issue that has to be dealt with.

In any event, I am digressing. Honourable senators, if this bill is referred to committee, I will ensure that it is given speedy passage.

Hon. Senators: Hear, hear!

Hon. Earl A. Hastings: Honourable senators, in reference to the remarks of Senator Marchand, and since he has invoked my name with respect to natives in custody, I feel obliged to respond and to say that I am in general agreement with the bill and I support him on the issue he is bringing to our attention—that is, that there are far too many natives in custody and that that number is far out of proportion to the population of Canada.

It seems that we are totally incapable of facing the issue of a native in custody. I should like to say that, until we understand the native and until he can come to some understanding of our system of justice, he will simply continue to resign himself to whatever fate the Parole Board, the courts or the administration invoke upon him. It is most unfair and cries out for attention—not on his behalf but on our behalf.

In that respect I hasten to support Senator Marchand's proposal that a committee of the Senate on aboriginal rights be formed as quickly as possible. That is one of the first issues I hope the committee will address.

Hon. Senators: Hear, hear!

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. Mira Spivak: Honourable senators, I move that this bill be referred to the Standing Senate Committee on Social Affairs, Science and Technology.

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

Hon. Lorna Marsden: Honourable senators, if the bill is referred to the Standing Senate Committee on Social Affairs, Science and Technology, then, given that the bill is the product of negotiations in a most unusual situation in Ontario where we have a federally and provincially-appointed Indian Commissioner, Roberta Jamieson, I wonder if honourable senators would consider inviting her to be a witness before the committee.

Hon. C. William Doody (Deputy Leader of the Government): The chairman of the committee is not present, but I am certain he would be only too happy to accede to Senator Marsden's wishes. Certainly, the committee is master of its own affairs and can invite any witness it wishes.

Motion agreed to and bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

AIR CANADA PUBLIC PARTICIPATION BILL

SECOND READING

Hon. William M. Kelly moved the second reading of Bill C-129, to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public.

He said: Honourable senators, I rise today to speak on Bill C-129, an historic bill that, once passed, will authorize the government to privatize Air Canada.

As some of you may know, I was co-chairman of my party's task force on crown corporations and privatization prior to the 1984 election. As part of its mandate, the task force took a look at the privatization of Air Canada and came to certain conclusions. For this reason I am pleased to have been assigned to introduce Bill C-129 today.

I believe that the privatization of Air Canada is an idea whose time has come. I should like to explain why.

Air Canada is a mature corporation with an integrated domestic and international network encompassing 62 destinations. It has assets of over $3.1 billion and employs over 22,000 people. Air Canada is a competitive, stable and well-managed company.

At the same time, Air Canada requires capital: capital to modernize its fleet and equity capital to regear its leverage to a more conventional level.

Over the next five years the airline will require $2.5 billion or more for fleet replacement and other capital requirements. Substantially more capital will be required for fleet replacement thereafter. Some of these capital requirements, in my opinion, will obviously have to be equity financed.

Three generic choices face the government in this situation: either continue past practices and allow the corporation to load up even more on debt; have the government provide more equity capital; or give private investors the opportunity to provide at least some of the capital.

Forcing Air Canada to load up on debt would seriously disadvantage the corporation in modernizing its fleet, in responding to the new deregulated environment and would make Air Canada vulnerable to any economic downturns. In short, increasing Air Canada's debt load does not represent a prudent business decision.

Forcing Air Canada to continue to rely exclusively on the government for equity infusions would have meant that Air Canada would be subject to the vagaries of the government's macro fiscal and monetary policies and constraints, regardless of the requirements of the corporation. The past trend would have continued; Air Canada would have become starved for capital and would have run the risk of becoming a truncated corporation, unable to compete effectively or respond to the changing circumstances and requirements of a rapidly-changing domestic and international market.

Given that Air Canada is a mature and stable corporation, I think it only a natural evolution for Air Canada to be allowed to satisfy its capital requirements, at least in part, from the private equity markets.

The air transportation sector in Canada has reached a point of maturity and stability. We now have three "national" carriers—Air Canada, Canadian Airlines International, with Wardair emerging as a strong third airline. Furthermore, both Air Canada and Canadian Airlines have expanded their networks through affiliation with "connector" or "alliance" partners. Air Canada's connector network is composed of six feeder carriers that provide service to 96 Canadian communities. Canadian's partners include seven feeder carriers that provide service to 113 Canadian cities. Since 1984 there has been a 50 per cent increase in scheduled airline departures, from 6,200 to 9,300 on average per week. We have come a long way since the time when Air Canada could legitimately have been characterized as the only truly "national" airline. Competition in the industry is intense and the level and standards of service are good.

No longer do we need a government-owned carrier to fill the vacuum left by the private sector to provide a truly national service infrastructure. While all this was part of Air Canada's—or TCA's— original mandate, the objectives either have been achieved or are being achieved by other means.

[Senator Kelly]

• (1520)

It has been some time, for example, since it was part of Air Canada's sole role to provide service to remote areas. Such services are now provided by a range of small and medium-sized air carriers. The government needs no longer to own Air Canada as an instrument of public policy. Air Canada's unique public policy objectives have been achieved; and the government's wider public policy objectives for the sector can be achieved as well, or better, under private sector management and ownership.

I also believe that continued government ownership of Air Canada will dampen the impact of air transportation deregulation begun by the previous government in its May 1984 policy statement and brought to its current state by the new National Transportation Act passed by Parliament in 1987.

Who would take deregulation seriously when the dominant firm in the market continued to be government-owned and could always fall back on the government's deep pockets? Would the full beneficial impacts of competition be felt if Air Canada always had the safety net of the Consolidated Revenue Fund to fall back on? Air Canada persisting as a crown corporation would have inevitably skewed the forces of competition and deregulation which the government wishes to inject into this sector. Air Canada persisting as a crown corporation under deregulation would also have put Air Canada's competitors at a significant competitive disadvantage.

In addition, while domestic routes are now deregulated, basically, any air carrier who demonstrates willingness, insurability and operating fitness will be licensed to fly a domestic route. All applications for domestic licenses—except in the north, where there is still a need for economic regulation—are granted if the company has: 1) an operating certificate from Transport Canada; 2) insurance, and 3) is Canadian.

More competition is being encouraged on international routes as well. International licences are now much less restrictive and the policy is not to do so much "carving up the pie" as to let all qualified carriers apply for routes.

As we move away from the "carving up the pie" approach, it is important that Air Canada have no preferential treatment. But, as a crown corporation, it would be difficult for the government not to treat Air Canada "differently", or at least it would be difficult for other air carriers to believe that Air Canada was not receiving preferential treatment. Privatization will remove this real or apparent conflict from the government and Air Canada.

Finally, capital constraints aside, I do not believe that commercial crown corporations such as Air Canada can be truly commercial or can compete effectively under the policy and financial management and control regime operated by the government and embodied in Part XII of the Financial Administration Act. While it is entirely suitable for crown-owned monopolies, or for corporations dependent on the public purse, the regime of direction, control and accountability is too detailed, too inflexible, too bureaucratized and too dilatory for commercial enterprises.

For example, under Part XII, Air Canada is required to obtain cabinet approval of its five-year corporate plans and annual capital budgets. In the absence of cabinet approval, Air Canada cannot legally enter into capital expenditures and commitments. I would remind honourable senators that in many instances cabinet approval is not obtained until after the beginning of the year to which the budget applies. Furthermore, the budgets and plans are reviewed, in detail, by the Department of Transport, the Treasury Board, the Department of Finance, and sometimes even the PCO, prior to cabinet review. The interests and perspectives of these departments are not always synchronized, meaning that a corporation like Air Canada is often placed in the middle, arbitrating amongst competing and often conflicting objectives and perspectives.

Crown corporations such as Air Canada are accountable and responsible in some form and measure to a host of authorities in Ottawa, including the responsible minister and his or her department, a regulatory authority such as the CRTC, NTA, NEB or AECB, Parliament and the parliamentary committees, Finance, Treasury Board, the PMO, the PCO, the Auditor General, the Comptroller General, the Commissioner of Official Languages, the Human Rights Commission, and so forth. The government is anything but a unitary, homogeneous shareholder! One chief executive officer of a commercial crown corporation told me that he spent about 75 per cent of his time dealing with "Ottawa" and about 25 per cent of his time managing his corporation!

In order to respond effectively to a deregulated market place and to respond to intense competition, Air Canada must be cut loose from the government controls that bind it and from which Air Canada's competitors are immune.

That freedom will not be without a price. No longer will Air Canada be a "chosen instrument" of the Government of Canada; no longer will there be an implicit or explicit guarantee on its borrowings; no longer will the deep pockets of the Consolidated Revenue Fund be there as a safety net in times of need.

Honourable senators, there is some mythology attached to the privatization of Air Canada: that somehow Air Canada will be less a national symbol if it is no longer owned by the government; that somehow standards of safety and service will decline under private ownership. This mythology is easy to reject. Air Canada will persist as a national airline worthy of our pride whether it is owned by the Government of Canada or by a broad segment of individual Canadian investors.

Secondly, I reject the notion that government ownership is somehow intrinsically better than private sector ownership, the marketplace and the forces of competition in ensuring proper standards of service and safety. As honourable senators know, under the Aeronautics Act, the Department of Transport applies the same regulations and standards for air-worthiness and safety across the gamut of carriers regulated under that act. There are no distinctions drawn between government-owned, privately-owned and publically-owned carriers by MOT when it comes to safety. A privatized Air Canada will be no less safe or reliable than a government-owned Air Canada! A privatized Air Canada will be no less "national" or "Canadian" than a government-owned Air Canada!

As some of you may know, the Commonwealth of Australia is taking a very close look at the sale of its two government-owned airlines, Qantas and TAA. I was intrigued and encouraged by Labour Prime Minister Bob Hawke's statement that he saw nothing in social democratic theory that required continuing government ownership of airlines. Surely the same applies to Canada, where the air transportation sector is more developed, more mature, more competitive and less regulated than in Australia.

So, honourable senators, I am whole-heartedly in support of this privatization initiative by the government.

There may have been other ways to achieve the privatization, however. For example, it was possible for the government to recapitalize Air Canada—as was last done in 1977—commercialize it by continuing it under the Canada Business Corporations Act and allowing it to operate independently of government. With a two- or three-year track record of commercial performance, the government could then have sold its shares. This, in fact, was the way in which British Airways was privatized. The advantage in that approach is that the move to the private sector is less sudden and the stock less speculative when it finally comes to market.

Assuming that a 60-40 ratio is the standard to be achieved, a refinancing at this time—by the conversion of debt to equity—would have cost the Consolidated Revenue Fund something in the neighbourhood of $125 million—or slightly more than a third of the government's net proceeds from the sale of Teleglobe Canada last year.

I can understand why, at this point, the government would have rejected that alternative, given the other, major demands on the Consolidated Revenue Fund.

Furthermore, reflecting back to an earlier point, I do not think it would have been fair in a time of deregulation to give Air Canada, in effect, a two- or three-year "head start" or "leg-up" on its competitors by the government's recapitalizing Air Canada, based on what Air Canada needed and not on what the market thought Air Canada deserved.

I am told that in 1977 Air Canada's competitors, particularly CP, complained bitterly about the recapitalization of Air Canada and the competitive advantages that recapitalization were said to have given Air Canada. I suspect that the opposition from CAIL and Wardair to a further recapitalizaton would have been even more intense, and legitimately so, in this deregulated environment. What, after all, is more legitimate than to ask for a level playing field on which to compete?

Furthermore, I suspect it is impractical for the government to really allow a crown corporation to operate independently. Experience has shown that the government will be held to account regardless.

This brings me, honourable senators, to my third point, which is the partial privatization of Air Canada contemplated by the government. The bill before us today would authorize

the government to divest itself of 100 per cent of the shares of Air Canada; to completely privatize it.

I understand, however, that it is the government's intention to divest itself of only 45 per cent for the time being. I also understand that Air Canada is currently working on an employee share ownership plan that would result in some portion of the shares being held for employees at a discount.

Within the 45 per cent public issue, therefore, some shares will be available to Air Canada employees, thereby diminishing the size of the truly "public" tranche.

In other words, for at least the time being the government will continue as the majority shareholder in Air Canada. I understand this decision has been made for reasons of capital market capacity and current market circumstances. In short, it is apparently the judgment of the government's advisors that a public tranche of up to 45 per cent is about right in current market circumstances.

Quite frankly, this concerns me. We know that as long as the government is the controlling shareholder—indeed, as long as the government is a significant shareholder—it will be held politically accountable for Air Canada's operations and any of Air Canada's failures and foibles.

● (1530)

In his public statement and in his and his officials' statements in the other place, the minister has stressed the government's plans to act only as an investor in Air Canada after the public issue, not to play a management role, and to adhere to its commitments to act in concert with the public shareholders of Air Canada in the commercial best interests of the corporation.

Even at that, the temptation for the government to intervene will be enormous. We need only look to the experiences with the Canada Development Corporation and Telesat for examples. What message will the government's controlling interest send to shareholders, employees, management and competitors of Air Canada? Will Air Canada really be free from government intervention?

For these reasons I sincerely hope that Air Canada is completely privatized quickly and is not "stuck" for long in a hybrid—part government, part private—position.

Honourable senators, allow me to turn to some of the specifics of this bill. Under clause 5 of the bill, Air Canada is to be continued under the Canada Business Corporations Act. By virtue of the Air Canada Act, 1977, Air Canada is currently a "special act corporation" in which only Her Majesty in right of Canada may hold shares. Continuance under the CBCA will put Air Canada on the same corporate law footing as its competitors, give it more flexibility and relieve its dependence on Parliament for any routine changes to its legal corporate structure.

Clause 6, however, entrenches certain requirements of public policy that will be reflected in Air Canada's charter indefinetely: that total foreign ownership in Air Canada will not exceed 25 per cent—this provision, incidently, mirrors the provisions in the National Transportation Act whereby carriers licensed under that act must be at least 75 per cent Canadian-controlled; that Air Canada's head office will remain in Montreal and that the current operational and overhaul centres in Winnipeg, Montreal and Mississauga will be maintained.

Under clause 10, the Official Languages Act will apply to Air Canada in perpetuity, or at least as long as Bill C-129 is in force. I emphasize that the Official Languages Act will apply even after the government ceases to hold any shares in Air Canada.

Clause 11 relates to the board of directors of Air Canada. All directors are now appointed by the Governor in Council and serve "at pleasure" for three-year terms. Obviously, when shares are held by other than the government, the non-government shareholders will have the right to elect directors. Furthermore, since the government has committed itself to voting with the public shareholders, the public shareholders will have the power, in effect, to elect all directors of Air Canada, even while the government is the majority shareholder. Clause 11 provides for the continuation of current directors until the first annual general meeting of the new corporation and the immunity from damage claims by any director appointed by the Governor in Council whose tenure is cut short by virtue of not being elected to the board at the first annual general meeting of the continued corporation.

Clause 12 of the bill deems Air Canada's shares and debt instruments to be "legal for life"; in other words, qualified for routine "in the basket" investment under the Canadian and British Insurance Companies Act, the Loan Companies Act and the other federal statutes listed in clause 12.

In 1977, when Air Canada was last recapitalized and split off from CNR under the Air Canada Act, 1977, that act established Air Canada's debt obligations as being legal for life in order to allow Air Canada to borrow in the capital markets freely and at competitive rates. Clause 12 continues that precedent.

In the legislation to privatize Teleglobe passed by Parliament last year, Teleglobe's shares and debt instruments were also deemed to be "legal for life". In Teleglobe's case, it would have satisfied the legislative criteria for "legal for life" on a national basis, but because it did not have a share structure prior to privatization it did not satisfy the letter of the legislation.

For those in this chamber and elsewhere who are concerned about the impact of this legislation on the rights of employees, I offer the following assurance: policies governing employee interests—such as salaries, benefits, pensions and the like—will not be affected at all by this bill. The management of Air Canada has been responsible for labour-management relations for decades; this responsibility will continue. At the same time, the Canada Labour Code ensures that the collective agreements will be continued. The Pension Benefits Standards Act

ensures that the pension rights of current employees and Air Canada pensioners will be protected after public participation in Air Canada, just as they were before.

Air Canada is committed to meeting its pension obligations both under the act and in relation to the contractual obligations it has with employees, contrary to statements made during the legislative committee hearings in the other place. Air Canada's pension plan currently has an actuarial unfunded liability of approximately $127 million.

Honourable senators, in the late 1930s C.D. Howe and the Liberal government concluded that Canada needed a "national" air service. The government's clear preference at the time was that the service be provided by the private sector, or at least by a corporation with private sector and government ownership.

When Canadian Pacific refused to participate, however, C.D. Howe and Mackenzie King, in some pique, directed the CNR to establish an airline. Thus was created Trans Canada Airlines, which, until 1977, operated as a wholly-owned subsidiary of CNR.

In 1977, when Air Canada was recapitalized and separated from CNR, the Liberal government, as Senators Kirby, Pitfield and Kenny will recall, gave serious consideration to a partial privatization of Air Canada. In 1979 Air Canada was one of the crown corporations the Clark government and its advisors looked at closely as a candidate for privatization. My crown corporations task force reviewed Air Canada's privatization prospects in 1983-84. Now, with Bill C-129, the privatization of Air Canada seems close to fruition.

Rather than being seen as a break with the past or a new departure, I suggest we see this privatization as a natural evolution of Air Canada's development—one that will put Air Canada in a better position to meet the challenges and demands of the present and the future.

In that light, honourable senators, I commend this bill for your consideration.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I want to ask Senator Kelly if he knows whether the government gave Air Canada any assurances with respect to the passage of this bill by the Senate. I understand that Air Canada has purchased 34 Airbuses for a total of $1.8 billion on the strength of the passage of this bill. It has only been passed by the House of Commons.

Senator Kelly: Honourable senators, it is my understanding that the two things are not connected. If I remember correctly, the orders for the Airbuses were placed quite some time ago. However, I am not clear on that.

Senator Frith: I understand that that move came two days after the House of Commons approved the bill enabling Air Canada to sell 45 per cent of its stock. That is why I asked the question. The impression given is that Air Canada held up this order, while awaiting the passage of this legislation, and placed the order within two days of the adoption of the bill by the House of Commons. However, the bill has not been adopted by the Senate and is not law.

Senator Kelly: Honourable senators, all I can say is that, in my view, what we are hearing is conjecture on the part of journalists. It is clear, in my judgment and understanding, that Air Canada has no choice but to proceed with the continuation of modernizing its fleet. As I tried to outline in my remarks, the passage of this bill will make a difference to the way in which Air Canada's bills are paid. However, as I said, I do not believe that Air Canada has any choice but to move ahead with the Airbus purchase, even though, without the passage of this bill, the government would have to take a close look at how to go about paying the price.

Senator Frith: The way it was put to me by representatives of Air Canada was exactly as Senator Kelly just put it. They said that they had no choice; that, if they were to modernize, they had to make a purchase, but that the government really had either to privatize and get additional funds from the market or to take the funds out of the Consolidated Revenue Fund. The government decided, for the reasons put forward by Senator Kelly in support of the bill, that it was preferable to privatize and to get the funds from the market. That is why I am suprised that the order was made before the passage of this legislation by the Senate.

Senator Kelly: I am not sure whether another question has been put, honourable senators, but I want to make one additional comment and express my own quite frank and honest surprise. It was clear and quite obvious that substantial amounts of capital were going to be needed to continue operating Air Canada successfully. My surprise stems from the fact that the government waited so long to move towards privatization.

• (1540)

Hon. Gildas L. Molgat: Honourable senators, I should like to ask a question of Senator Kelly.

Senator Kelly referred to the condition that Air Canada will maintain its bases in Winnipeg and Mississauga. Could he give us more detail on that? Over what period of years is that guaranteed, and what kind of guarantee is it as to numbers, for example? Will it maintain the Winnipeg overhaul base with three mechanics? Will that be considered to be maintaining the base?

Senator Kelly probably knows that we, in Manitoba, are very suspicious of Air Canada's actions. Manitoba is no longer the head office and the main overhaul base. The erosion has been constant, and we are very fearful as to what guarantees we are painting in this bill.

Senator Kelly: Honourable senators, I would suggest that this sort of question perhaps would be better dealt with in committee, where there could be answers from the minister and others.

I should like to raise one concern that I know was expressed by Manitobans relating to the commitment to keep the Winnipeg base open in view of the pending order for Airbuses. The suggestion was that there was logic in the ongoing maintenance of the Airbuses being done in Montreal rather than Winnipeg, for a variety of reasons. I believe within the last day

plans have been announced. I would preface this comment by saying that I am only 99 per cent sure that this comment is correct. Maintenance of the bodies of the current Aircraft—the 727s—is concentrated in Winnipeg; maintenance of the Airbus bodies would continue in Winnipeg. Engine maintenance would very probably be taken care of in Montreal. There is no anticipated loss of jobs in either place. That is my understanding.

However, I do suggest that the committee would be the place to examine matters of that sort very carefully.

Hon. Ian Sinclair: Honourable senators, I believe all of us would like to say that we appreciate the way Senator Kelly has presented this bill.

I was surprised that he reached back to the 1930s and brought forth that old myth about how TCA started. I hope that we will not get into straightening that out, because there is a very broad difference of opinion among certain people, which has nothing to do with this bill. I am happy to say that that situation does not need to concern us, although I would be concerned if people took Senator Kelly's remarks about the 1930s as gospel.

Senator Kelly has said that this is an historic bill, and that is true. Air Canada, for over 50 years, has been the chosen instrument in the aviation of Canada, both at home and abroad. Having been the chosen instrument, it has had undoubted advantages.

Senator Kelly said that Air Canada would be starved for capital. Until recent years there was never any question about the ability of Air Canada to meet its capital requirements. In the modern age and with the cost of aircraft escalating the way it has, the need to maintain proper debt-equity ratios is of growing importance to the organization. I am sure that is one of the reasons why Air Canada management are concerned about their debt-equity ratios in a volatile business, where capital requirements are great and where, in the short term, variable costs are high.

In view of the strong statements made by Senator Kelly, I do not understand why it has taken so long to come to this obvious conclusion. If it has taken this long, what is the reason for moving now? Why did they not take Senator Kelly's advice back in 1983-84, when his task force came forward with the very strong recommendation? These are questions that we could ask people other than Senator Kelly, because, while he is a very powerful man, I am sure he does not decide government policy completely. Perhaps that is the reason why it was slow in coming forward.

Senator Kelly made another statement that surprised me, and that was this: The reason why there was only partial privatization was because of capital market restraints. I wonder if he recognizes the amount of capital raised by other companies with partially paid shares and with other methods that are open to them. However, perhaps these questions would be better directed to the experts who advised the company and who, I take it, advised the government. I take it the government did have outside financial advisers, and I would hope that they, as well as the investment advisers of the company, would be available to come before the committee.

[Senator Kelly.]

Honourable senators, the bill raises these questions of why now and why only part? Senator Kelly said that Air Canada is a mature and stable company and has been for a long time. That is not the reason this is being moved now. Perhaps he is trying to cover up the fact that once deregulation was in force the move to Air Canada should have been concomitant, and not some four or five years later.

In any event, the committee looks forward to dealing with various aspects of this bill, making sure that we do not rush it, as was done in the other place, where it was rammed through the committee in one day. That obviously bothered people. I can assure honourable senators that the committee will spend more than one day looking at this bill. We will not try to rush this. We will attempt to give people an opportunity to speak, and we will report back to the Senate in due course.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Kelly, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE BILL

SECOND READING

Hon. Finlay MacDonald moved the second reading of Bill C-121, to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain acts in consequence thereof.

He said: Honourable senators, Canada is the world's leading producer and exporter of uranium. There are five uranium producers in Canada. Three of these producers operate one production centre each in northern Saskatchewan. The other two producers are Denison Mines Limited and Rio Algom, which operate four production centres in the Elliot Lake area in Ontario.

The purpose of Bill C-121 is to give the federal government the authority it requires to proceed with the agreement made with the Government of Saskatchewan, which was announced on February 22, 1988. That agreement calls for, first, merging the assets of Eldorado Nuclear Limited and a provincial crown corporation, Saskatchewan Mining Development Corporation, which is hereinafter referred to as SMDC; and, second, after the merger, privatizing the new company.

● (1550)

There has been extensive debate on this initiative in the House and there has been full and open discussion in committee. What I intend to do this afternoon is briefly summarize the key features.

Bill C-121 provides for the transfer of the assets of Eldorado Nuclear Limited to a new company in return for securities. The articles of the new company, which will be incorporated under the Canada Business Corporations Act, will specify certain conditions which the new company will be required to honour.

First, there will be ownership and voting conditions, which will provide an opportunity for a large number of investors to own shares while maintaining Canadian majority ownership and control.

No non-resident shareholder will be permitted to own more than 5 per cent of the total voting shares and, in total, non-resident participation will be limited to 20 per cent of total votes cast at any meeting of shareholders. Canadian residents will be permitted to own no more than 25 per cent of the shares and the new company will be restricted from issuing non-voting participation shares.

Another important feature of the bill is that the articles of the new company will require that the head office be located in Saskatoon. It is important, apparently, to place senior management close to the company's resource base. But more than that, we are expressing confidence in, and strengthening, Saskatchewan's world leadership in uranium production and technology.

The bill provides that the securities of the new company which will be owned by Eldorado will subsequently be sold, thus achieving the objective of privatization. The proceeds of the sale of these securities will be used by Eldorado to discharge its obligations, including the debt, which is an obligation of the Government of Canada.

Under the terms of the letters of intent signed by Canada and Saskatchewan last February 22, the new company will also acquire the assets of SMDC in return for securities. The combined entity will be privatized over a period of seven years.

This two-staged plan—the merger and the privatization of Eldorado and SMDC—was recommended by Eldorado's parent organization that Canada develop an investment corporation.

As a matter of fact, I remember reading in an old *Hansard* of 1982 questions by Senators Phillips, Roblin and Murray to, I believe, Senator Austin, who was at that particular time the Minister of State for Social Development, when he was describing what he referred to then as the imminent merger and privatization of these companies. This is not an idea initiated by this government.

The recommendation was not made lightly; it followed three years of detailed and complex negotiations and preparations.

The point I am making here is that, while it appeared to have the blessing of the previous government, it appears to be left for us to determine whether or not the terms are acceptable and appropriate.

Both CDIC and its financial advisers, Burns Fry Limited, have expressed the opinion that the transaction is equitable and provides fair value for Eldorado's assets. In addition, the merged and privatized entity will be taxable, which will increase the potential revenue for the federal government.

The legislative committee studying the bill in the other place has had the opportunity to discuss these important points with the chairman of CDIC, as well as with representatives of Burns Fry.

Quite apart from these commercial and financial considerations, the privatization of Eldorado, as contemplated in this bill, responds to many other considerations that are essential to a successful privatization process.

The process will offer employees an opportunity to share in the ownership of their new company. The share ownership program will benefit both employees and the new company, since it builds the kind of cooperative partnership between management and staff that leads to productivity and profitability.

The experience of Teleglobe, as indicated by Senator Kelly, has demonstrated employee interest in share ownership, since 98 per cent of Teleglobe employees bought shares and 96 per cent of employees bought the maximum amount available to them.

The Eldorado and SMDC amalgamation will result in a combined workforce of approximately 1,000 people. There will be no perceptible impact on job security for employees working at Eldorado operations—including mining, refining and conversion—which will be taken over by the new company. The rationalization of administrative functions may affect a small number of people, who will be treated in a fair and sensitive manner.

I am sure that all of us believe that the best guarantee of jobs and job security is a healthy, viable company, with financial stability, competitive advantages and a secure market for its products. All of these conditions apply with regard to this privatization effort. We have seen the positive benefits in terms of the better and more secure jobs that followed other privatization efforts initiated recently.

Let me turn to one issue that all of us accept as a serious and important responsibility: the protection of employees and the public at large. Last April 25 the Minister of Energy, Mines and Resources announced new uranium mining regulations. These regulations reflect the government's commitment to the health and safety of workers and the protection of the environment.

In testimony before the legislative committee, the Atomic Energy Control Board made it clear that the privatization of Eldorado would not affect the board's authority under the Atomic Energy Control Act. The new company will be subject to the same regulations concerning the health and safety of workers and the protection of the environment as any other private or public corporation.

So, honourable senators, it is abundantly clear that Canada has in place an appropriate regulatory framework to oversee properly the uranium industry. It is clear that the transaction that we are now proposing through this legislation will not at all affect the regulatory framework.

Exports of uranium and nuclear materials will continue to be controlled and monitored by the Atomic Energy Control Board and the Department of External Affairs in accordance with Canada's nuclear non-proliferation policy. Other acts and regulations, such as the Canada Labour Code, will also continue to apply to the new company. Maintaining these two organizations as crown corporations is not required to ensure public safety, employment safety or the continuation of the current regulatory environment.

The Government of Canada also recognizes its financial responsibilities with respect to the waste accumulated by Eldorado over the past decades. The government will contribute to the funding of a solution for the management of these wastes through a cost-sharing formula that forms part of the agreement establishing the new company. However, all costs associated with the management of future waste will be assumed by the new company.

Before I conclude, I want to make one more point about the role of communities in this process.

The government will ensure that all commitments entered into by Eldorado with local communities will be honoured, as will Eldorado's other obligations. Moreover, we anticipate that the new company will act in the same manner as Eldorado, as a good corporate citizen in all of the communities and regions in which it maintains an active involvement.

The legislation opens up new opportunities for Eldorado. The merger with SMDC will create a significantly stronger company, with the resources, technology and personnel to compete effectively in the global market. The amalgamation will also lead to a more rational development of the two companies' uranium mines. The new company will be able to use the combined resources of Eldorado and SMDC to focus upon low-cost projects. This will mean a more efficient allocation for capital and other resources, which, in turn, will mean increased financial and economic returns.

The wide distribution of shares and restrictions of the ownership of shares will give Canadians and employees a real and direct interest in the future of the company. These safeguards will also ensure that control remains firmly in Canadian hands and, at the same time, the operation of the current regulatory regimes will ensure that vital public interests, such as health, safety and environmental protection, will continue unabated.

● (1600)

Honourable senators, this agreement will benefit Canada and it will benefit Saskatchewan. It adds strength to Canada's uranium industry in a manner that will enable it to contribute more to the nationa! economy and to Saskatchewan's economy. I trust that this house will move expeditiously through the next stage of debate.

Hon. Ian Sinclair: Will the honourable senator permit a question?

Senator MacDonald: Yes.

Senator Sinclair: I wonder if the honourable senator can tell us why, when capital assets of approximately equal value are merged, one outfit finishes up receiving only 35 per cent and the other outfit ends up with 65 per cent?

Senator MacDonald: Yes, that point rather leaps out at you. As I understand it, the assets of both companies are somewhere in the area of slightly over $900 million, and this split in ownership is heavily in favour of Saskatchewan. I understand that the determination of share ownership or the worth of the companies, as recommended to CDIC by Burns Fry, was estimated on a discounted future cash-share basis.

Senator Sinclair: Honourable senators, that is very interesting. The honourable senator said that this deal was good for Saskatchewan, and I can well understand that point. I am wondering whether it is as good for Canada as the honourable senator indicated it was, given that there is such a disparity in the values. Discounted cashflows, of course, are based on assumptions. There is solid value in assets though they have different earning potentials at various times. Eldorado has asset values on the refining side, which obviously begs the question about the value of those assets, given that this is not a good time for refining uranium.

Senator MacDonald: It will be very interesting to hear what CDIC's financial advisers from Burns Fry have to say before the committee to which this bill will be referred. They have outlined their evaluation process and they have indicated that it was totally in accordance with the normal methods of evaluation for mining companies.

Senator Sinclair: I wonder if the honourable senator could answer this question: Will the membership of the committee consist of the Honourable Senators Balfour, Steuart, Sparrow, Buckwold and Barootes, people who seem to have a certain geographical advantage or disadvantage, or can I be assured that there will be a broader aspect, including the honourable senator who will bring a maritime approach, when it comes to looking at this deal?

Senator MacDonald: I am sorry, but I missed the first part of the honourable senator's comments. Is he suggesting that we should all be directors of this new company? If so, I think we should wait until the lobbying bill comes in to make sure.

Senator Sinclair: We are going to have to be careful, because Senator Barootes is the chairman of one of the outfits. What I should like to know is whether the committee that reviews this bill will have a broad regional composition or will be loaded with these fair people from the west.

Hon. Sidney L. Buckwold: Honourable senators, it is my privilege to speak on behalf of this side of the chamber, albeit in a completely different vein from that raised by my colleague, Senator Sinclair. I am sure that Senator Sinclair and most honourable senators will be rather interested in what I say in due course. I think that this is a bum deal for Saskatchewan. I shall be referring to my colleague, Senator Barootes, who, you may be interested to know, is the chairman of the board of the Saskatchewan Mining Development Corporation.

Senator Sinclair: He is not here today.

Senator Buckwold: No, he is not here today and I am sorry, because I would like to compliment him on his acumen in the way he is running that very successful company as chairman of the board. Eldorado Nuclear Limited, on the other hand, has been a money-loser for many years, and I shall go into that in due course.

As a matter of fact, let me say to Senator Sinclair that I am amazed that Senator Barootes, canny Scot that he is, would be taken in by these big boys from Ottawa and Toronto by allowing them to unload Eldorado on an unsuspecting company in Saskatchewan—taking advantage, perhaps, of its agricultural roots, as these big city slickers come in and sell a bill of goods. Eldorado is not the world's greatest buy, and I will come to that point.

Senator MacDonald: But Saskatchewan is getting 61 per cent of it.

Senator Buckwold: I will come to that point in a moment, but I do not think it is a great deal. If people simply look at the figures, they may be misled.

Uranium and mining form a very important part of the economy of Saskatchewan. Most often senators from Saskatchewan, led by my friend Hazen Argue and others, talk about agriculture, drought, deficiency payments and so on; but in fact the agricultural industry is receding in its importance to the economy of Saskatchewan and is being replaced by mining. Let me read from an article in the *Globe and Mail* which talks about Saskatchewan. It reads in part:

> Agriculture is responsible for only 17 per cent of total production in an average year,

—the article is referring to wealth in Saskatchewan. It goes on:

> Mining has become just as important as the farm sector today, because it accounts for roughly 17 per cent of provincial output by itself.
>
> The economy of Saskatoon,

—my home city—

> for example, was once based on agriculture. "But this is a mining town now,"

—and so on.

I once met a senior executive from a mining company at the airport in Saskatoon—and it may have been connected with the firm Senator Sinclair was formerly associated with. He said to me, "I love coming to Saskatoon; it's the cleanest mining town that I have ever visited." That was the first indication that I had that I lived in a mining town. We have five huge potash mines around the city and we have this immense uranium and gold industry located in northern Saskatchewan. Saskatoon is the headquarters for the gold and uranium industries in northern Saskatchewan and it is also a key centre for the potash industry. The gold and uranium industry employs 3,000 people directly and creates a further 7,500 jobs indirectly. I give honourable senators that information to give them some background on why mining is so important and why this deal is of interest to the people of Saskatchewan as well as to the people of Canada.

The history of uranium mining in Saskatchewan is quite interesting. Our friends in the NDP, hypocrites that they are, are always, at their conventions and in their statements, protesting the mining of uranium because of its nuclear energy potential. They march on city hall and the legislature. Even to this day it is the same people who are trying to get Saskatoon to declare itself a nuclear-free area. This has been going on for a long time. However, some years ago the Government of Saskatchewan, under an NDP administration, discovered that we had the finest uranium ore in the world, that it had a very high concentration of uranium and that, therefore, it had real potential. They appointed a little commission headed by someone they knew. Although, ostensibly, by party platform they are very much opposed to uranium mining, they, nevertheless, recommended that the Government of Saskatchewan—because it was a good investment and they are not really that dumb—should, in fact, proceed to invest, along with partners, in this very profitable mining endeavour, based mainly on uranium.

• (1610)

Honourable senators, that concludes my background comments. The Saskatchewan Mining Development Corporation is a very profitable organization. Would you believe that last year, according to Senator Barootes' report—I am sorry he is not here to hear my compliment—that company had earnings of $60 million? It has been profitable year after year. It has had a 20 per cent return on equity.

In contrast, let us look at Eldorado. In evidence he gave to the committee of the House of Commons, Dr. Douglas McArthur, professor of economics at the University of Regina, said that Eldorado is just not a profitable concern and that only in one year have its profits ever been higher than $5 million, although it has assets of almost $1 billion. He said that they had accumulated losses of $155.9 million by 1986. Of course, the previous government put it on the block. It was a good asset to dispose of, but they did not have any buyers, apart from one who wanted it at such a cheap price that the government could not even look at the offer.

Some of you may think that Saskatchewan got such a great deal because, as Senator MacDonald said, they have about the same amount of assets, namely, $950 million to $1 billion each. Although they have the same assets, Saskatchewan ends up with 61.5 per cent of the company and the Government of Canada with 38.5 per cent. Our poverty-stricken friends from Toronto in the big corporations are concerned that poor Saskatchewan got the best of the deal because it ends up with a bunch of unproductive assets.

I have a Brooklyn Bridge that perhaps Senator Sinclair would like to buy. It is worth a lot of money, but it does not really earn very much.

My comment to the Government of Saskatchewan, which is anxious to get into the deal because it puts them into the big league, is that I am not quite sure they will end up with a

profitable corporation. I would remind them that what they have is a very rich corporation indeed.

Honourable senators, having said that, we certainly think that it is a good idea—

Senator Sinclair: Ho, ho!

Senator Buckwold: I hear an uproar of laughter from my friend, which is all very well, but just because we think we did not get the best of the deal does not mean that some synergy is not possible between the two operations. Eldorado, which has its problems, does have some properties that will fit into the long-term objectives of the Saskatchewan Mining Corporation.

As has been pointed out, there are, of course, problems with the environment, waste disposal and all kinds of things that mining uranium basically creates. Those will have to be properly addressed.

Thirty per cent of the ownership by both governments will be disposed of within two years; a further 30 per cent will be disposed of within four years; and the balance in seven years. That is fine. Then we get into what Senator MacDonald carefully pointed out, namely, that the government is anxious to ensure that this very important strategic mineral is Canadian controlled. Statement after statement is made on the importance of the legislation in terms of ensuring that Canadian interests are fully protected through ownership. The Honourable Barbara McDougall, in introducing this bill in the House of Commons, said:

> Let me turn to the specifics of this legislation because this will show Canadians we are also meeting our third condition for successful privatization, maximizing the benefits to the Canadian public.

She goes on to indicate the various controls, such as the limit of 25 per cent of voting shares that can be owned by Canadian individuals, the limit of 5 per cent for individuals who are non-residents of Canada, and the maximum of 20 per cent voting shares at any given meeting. That may sound all very well. However, last week I saw in a newspaper published in my hometown, Saskatoon, an article reporting an interview with a gentleman by the name of William Gatenby, who is the newly-appointed chief executive officer of this new corporation. The headline was: "Foreign equity in uranium may rise". I am sure he was not authorized to say this, but let me read what he told the interviewer. The article starts out in the following manner:

> A 20-per-cent restriction on foreign ownership could be lifted if there is too much difficulty in selling enough shares to Canadians in what will be the world's largest uranium producer, says its newly-appointed chairman.

The article goes on to state:

> According to a letter of intent signed by the federal and provincial governments in February, no non-Canadian will be entitled to hold shares carrying more than five per cent of voting rights, and total foreign ownership is restricted to 20 per cent.

[Senator Buckwold.]

> "This restriction can always be changed, and those levels will be looked at as we go into the future," says Saskatchewan-born Bill Gatenby, who at 62 was hand-picked by the federal and provincial governments to establish the new company.
>
> "Looking at this in the long range, I am sure that if we were unsuccessful in selling shares in Canada, and could not raise the necessary equity, careful consideration would be given to increasing the 20-per-cent restriction currently in place on foreign investment,". . .

That does not speak very well for the assurances from the government and the minister that we are going to keep this under Canadian control. The first public statement from the chairman of the board is to the effect that, if we do not sell enough in Canada, we will go outside.

Committee members should ask a few questions about that type of thing. They must ensure that our environment will be protected, that the transfer of employees is fairly carried out, that pension rights, superannuation, severance pay and all the other types of benefits are fair and equitable and that, overall, this is the kind of bill that will retain the harmony that is essential to maintaining the very best of relations.

Honourable senators, I close my remarks with a plea for environmental controls, as suggested by Senator MacDonald. In our part of the world that is very important for the workers and for those who are actively involved.

Having given you this background, I certainly hope the bill receives careful consideration in committee. I would be prepared to answer any questions you may have on what may be, from your point of view, some startling remarks I presented this afternoon.

Hon. Senators: Hear, hear!

Senator Sinclair: Senator MacDonald has told us that it will be necessary to be fair to the employees in regard to pensions and other matters. I have been told that one company has a defined-benefit plan and the other a money-purchase plan, and those are very difficult to bring together. I take it that what the senator is saying is that the committee will consider that matter.

● (1620)

Senator Buckwold: I am not the government. Since I am not sponsoring this bill, Senator Sinclair might direct that question to Senator MacDonald.

Senator Sinclair: I will put the question to Senator MacDonald.

Senator MacDonald: Honourable senators—

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

Senator MacDonald: I did not hear the question Senator Sinclair put.

Senator Sinclair: Would the committee be concerned with the melding of the two types of pension plan involved in these two companies? One, I understand, is a money-purchase plan and the other is a defined-benefit plan. Will the committee be looking into those?

Senator MacDonald: I know nothing of the pension plans—

Senator Frith: Please finish that sentence.

Senator MacDonald: —of either company. I do not think that is beyond the competence of Senator Hastings and his committee. I certainly hope that Senator Hastings will invite both Senator Sinclair and Senator Buckwold to sit in on that committee.

Senator Sinclair: I am not from Saskatchewan.

Senator Buckwold: He has taken everything there is from Saskatchewan.

Senator Frith: Take the money and run, right?

Senator MacDonald: Senator Buckwold has given us a very good explanation as to why Senator Barootes is not here today. Having listened to Senator Sinclair, I do not know whether Senator Barootes would be afraid to be here because of the uncontrollable drooling over the good deal he made or whether he would be afraid he would burst into tears. I notice that he has been complimented on his Scots sagacity. I have to remind you that, while Senator Barootes owns two kilts, he only owns those kilts because, as honourable senators know, he was the medical officer for the Canadian Scottish during World War II. However, I will pass on your kind remarks.

The other gentleman who was quoted with respect to the uncertainty with respect to future ownership, and so on, makes a very interesting point. I think there are other ways the government could have gone about arranging this; I should have thought the reason they chose the route of legislation was to ensure that these restrictions and constraints were made abundantly clear. However, that is all, honourable senators, I have to say at this time on this bill.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator MacDonald, bill referred to the Standing Senate Committee on Energy and Natural Resources.

CANADIAN INTERNATIONAL TRADE TRIBUNAL BILL

SECOND READING—DEBATE ADJOURNED

Hon. Gerald Ottenheimer moved the second reading of Bill C-110, to establish the Canadian International Trade Tribunal and to amend or repeal other acts in consequence thereof.

He said: Honourable senators, the two primary purposes of Bill C-110 are to amalgamate the three existing import institutions and to extend the right of direct access for safeguard inquiries to all Canadian industries.

The amalgamation exercise is part of the government's efforts to rationalize and streamline federal institutions and practices. At the present time there are three import institutions: the Canadian Import Tribunal; the Textile and Clothing Board; and the Tariff Board. Each of these institutions can carry out general economic inquiries and/or injury inquiries. This situation creates duplication and discourages consistency in the examination of import and trade-related issues.

By bringing together under one roof the inquiry functions of the three tribunals, expertise and knowledge regarding trade matters will be more efficiently focused. This will help to ensure harmonization in the treatment of import and other international trade issues. The new tribunal will provide a central focus for examining the trade-related concerns of Canadians. The government will have a sound and consistent base on which to make decisions. This is clearly an improvement over the existing institutional regime.

[*Translation*]

The tribunal will take over the main functions of existing organizations, but it will also have the task of examining the complaints of Canadian producers when an increase in imports is the principal cause of serious injury to domestic producers of like goods.

In fact, that role is not an entirely new one. At the present time, the textile and clothing industry can go directly to the Textile and Clothing Board to ask it to undertake an inquiry to determine injury. What is new is the application of that right to all industries. This broader application aims to make the process more equitable and more open. For Canadian producers, the new system will be more transparent and better defined.

Until now, with the exception of the textile and clothing industry, such inquiries could only be carried out at the request of the government. Industry representatives were sometimes totally confused, as they did not know where to turn. Such situations will no longer arise.

[*English*]

Although there is a new right of direct access, this does not mean that any complaint by a Canadian producer will automatically lead to an injury inquiry by the new tribunal. If that were the case, the system could well degenerate into one used for harassment rather than serving its primary purpose, which is the investigation of situations where an industry has well-founded problems in facing import competition. I want to stress that the essential purpose of safeguard actions, such as surtaxes or quotas, is to help an industry during a limited period to take the necessary steps to become more efficient in order to be in a position to face import competition once the measure is terminated.

It should also be noted that the taking of safeguard actions may have important trade and domestic implications. With respect to the former, the imposition of safeguard measures may have the effect of nullifying a concession granted to other

countries in past trade negotiations. In such circumstances they have a right under the GATT to retaliate if compensation is not paid. Consequently, it is important that only legitimate concerns be investigated. The direct access system has been designed with a view to balancing the need for an independent hearing into import concerns while, at the same time, preventing abuses of the system.

For example, for a safeguard injury inquiry to be initiated by the tribunal, certain conditions will need to be met. The petition must be made by firms producing a major proportion of the Canadian production of the goods being investigated. A firm accounting for a small proportion of a healthy industry could not have its problem investigated by the tribunal. If the industry is generally healthy, the problems of the firm must have causes other than imports and the solution must be found elsewhere, perhaps within the firm itself. Furthermore, producers will have to provide adequate *prima facie* evidence that increased, fairly traded imports are causing the alleged injury. [*Translation*]

During the inquiry, which should normally not last more than six months, the tribunal will determine if the goods are being imported in such increased quantities as to be a principal cause of serious injury. The term "principal" means that the increase constitutes a cause of injury which is at least as important as all the others. This concept was added to allow the tribunal to make a finding of serious injury only if such injury is really attributable to imports. When that is not the case, the taking of safeguard actions will not solve the problems of the firm.

The bill contains provisions pursuant to which the government may ask the tribunal, in an inquiry into a complaint, to examine other related matters, be it during or after an inquiry undertaken following a complaint filed by domestic producers. That is an important aspect of the provisions relating to direct access. As I said previously, the taking of safeguard actions could have important consequences. By taking into account the particular circumstances of the case being examined, the government will be able to ask the tribunal to assess those repercussions, in the course of its deliberations.

● (1630)

Honourable senators, this legislation streamlines and rationalizes Canadian import institutions and makes our import institutional regime more transparent. I believe that the extension of the right to directly request a safeguard inquiry will be important for Canadian producers. When they have a justified concern regarding imports, there will be no question about their having a "day in court" and a fair hearing. At the same time, the bill contains provisions aimed at ensuring that this extended right will not permit ill-founded, trade-harassing complaints to be proceeded with.

I am sure honourable senators will agree to this piece of legislation with habitual enthusiasm. I have endeavoured to introduce it without dillying and without dallying and without the even grosser abuses of dillying and dallying or dallying and dillying.

[Senator Ottenheimer]

I recommend this legislation to honourable senators for their enthusiastic endorsement.

On motion of Senator Frith, for Senator MacEachen, debate adjourned.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jack Marshall moved the second reading of Bill C-92, to amend the Canadian Wheat Board Act.

He said: Honourable senators, I rise to address the proposed amendments to the Canadian Wheat Board Act under Bill C-92. Unfortunately, Senator Bielish could not be here today. She was prepared to introduce the bill. I am sure she is more knowledgeable about the Canadian Wheat Board than a fisherman from Newfoundland is.

As most members of this chamber realize, since its establishment as a crown agency in 1935, the Canadian Wheat Board's reputation as a marketing agency has grown to the point where Canada is relied upon by many foreign customers as a dependable supplier of high-quality grain. Indeed, preliminary figures indicate that the efforts of the sales force at the Canadian Wheat Board resulted in the Canadian grain industry's achieving record export sales of 30.2 million tonnes of bulk grains and oilseeds in the last crop year.

The board has a unique relationship with producers—a relationship that goes back to 1935, when the board was first established. Over the years, through amendments to the Canadian Wheat Board Act, that relationship has been strengthened and improved.

The board's responsibilities are to market the wheat, oats and barley delivered to it and do so to the best advantage of producers; to provide producers with initial payments established and guaranteed by the federal government; to pool selling prices for the same grain so that all producers get the same basic return for the same grain and grade delivered; to equalize deliveries through quotas so that each producer gets his fair share of available markets; and to organize grain shipments to meet sales commitments in order to make the best use of handling and transportation facilities.

To sum up the responsibilities of the Canadian Wheat Board into one primary objective, I would say that the board markets as much grain as possible at the best possible price and thereby maximizes returns to prairie grain producers.

The purpose of the amendments being discussed today is to enable the board to continue to carry out that primary objective. It is as simple as that.

There are five amendments being put forward for consideration. The first three relate to sections of the Canadian Wheat Board Act that have become outdated. The remaining amendments represent improvements to the act. All amendments reflect the valued input of both the board and the producers who market through the board.

Let me first list the amendments for this chamber. Then I will come back to explain each one in detail.

The first amendment would ensure that quota and other delivery provisions of the Canadian Wheat Board's marketing system clearly apply to deliveries of grains to railway cars.

The second amendment would enable the Canadian Wheat Board to take advantage of a broader range of financial markets for borrowing and investment purposes.

Amendment number three would add canola to the definition of grain for the purposes of this act.

The fourth amendment would permit the Canadian Wheat Board, subject to Governor in Council approval, to adjust payments to producers who deliver grain to a railway car instead of a primary elevator to reflect the reduced carrying costs incurred in the handling of this grain.

The final amendment would provide for enabling legislation permitting members of the advisory committee to recover costs for travel time to committee meetings and for service on subcommittees.

Now, let us look at these amendments one by one.

With respect to the first amendment, an essential aspect of the board's operations is the administration of orderly marketing through the use of the quota system. The quota system is a very fair and equitable marketing method. It is the hallmark of the board's dealings with producers.

The key element of this system is the producer's permit book. Grain may only be delivered with a permit book and all deliveries must be entered in that permit book.

Producers delivering grain to railway cars, if not required to deliver that grain within their quota, may have an unfair advantage in terms of delivery opportunities over producers who rely solely on deliveries to primary elevators.

The intent of this amendment is to ensure that quota provisions apply to deliveries to both railway cars and primary elevators. Producers' delivery opportunities should be spread evenly among all producers.

The second amendment I spoke of will expand the board's sources for borrowing and investments.

Up until now the bulk of the board's borrowing has been from Canadian chartered banks. An amendment to the act in 1984 allowed the board to tap credit unions and trust companies as well. The government is proposing an amendment to the act that would allow the board to broaden its sources of financing. This should result in significant reduction of borrowing costs.

Canadian Wheat Board borrowings are considerable and the resulting reduction in interest rates would provide significant scope for reducing costs and therefore improving returns to grain producers. It would be advantageous, while broadening access to sources for borrowing funds, at the same time to widen the range of investment possibilities for the board.

Producer funds from grain sales which accumulate in the board's pool accounts are traditionally invested in government securities until they are distributed among producers in the form of a final payment. Opening up investment possibilities to the board could improve returns to producers.

The third amendment being proposed is to apply the provisions of the Canadian Wheat Board quota system to canola. In 1980 the name "canola" was trade marked as a term for rapeseed with a low erucic acid content. However, some countries still lump canola in with the rest of rapeseed, not all of which is fit for human consumption, which canola clearly is. Legal recognition under the act of the name canola will facilitate international marketing and further enhance the image of a product that has come to be known as Canada's "Cinderella crop".

The success story surrounding canola has grown to the point where export sales of canola reached a record 2.1 million tonnes in the crop year 1986-87. This amendment would result in the Canadian Wheat Board Act being brought into line with other legislation in reflecting this change.

The fourth amendment to the act that we will be considering would allow the Canadian Wheat Board to make an adjustment in the payment made to producers selling grain to the board by delivery to rail cars.

At present storage and carrying charges are borne by producers via pool account funds paid to elevator operators, regardless of where they deliver—whether to primary elevators or to producer cars. It makes little sense to charge these producers in full for a service they do not use.

However, the primary elevator system benefits all producers. One example is its ability to provide a surge capacity which smooths out volumes shipped so that unforeseen interruptions or seasonal declines in delivery do not result in an inability to deliver when export markets are available. Because such primary elevator capacity is beneficial to all prairie producers, it is reasonable that all deliveries should incur some charge for this service.

• (1640)

The final amendment to the Canadian Wheat Board Act would allow the board, subject to Governor-in-Council approval, to pay a per diem to members of the advisory committee for travel time to committee meetings and for service on subcommittees.

The government believes these amendments will bring the act up to date, enhance the operations of the board and assist those the board serves—the producers.

The amendments to the Canadian Wheat Board Act form part of the government's ongoing review of grain institutions to improve the overall efficiency of the industry.

To date this review has included amendments to such legislation as the Prairie Grain Advance Payments Act and the Western Grain Stabilization Act and has resulted in unprecedented support for the agricultural sector.

In the weeks and months ahead this government will table legislation to other acts affecting the grain industry with a view to enhancing further grain and oilseed producers' prospects in the years and decades to come.

These are tough times for many in the grain sector. This government is doing what it can to help. It understands the problems and it is working on solutions both at home and

abroad. The time has passed for bandaid solutions. What is required is a vision of the future and a bridge to get there. The government is building that bridge now, and these amendments are part of that effort. I commend the bill to the chamber.

Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Well done! Our Fisheries chairman is a man of surf and turf!

Hon. Dan Hays: Honourable senators, I should like to speak to the proposed amendment to the Canadian Wheat Board Act. First, I congratulate Senator Marshall on an excellent exposition of the proposed amendments. He has done well for a fisherman from Newfoundland. He shows extraordinary knowledge, which can be attributed to his time as chairman of the Agriculture Committee earlier in this Parliament.

Senator Frith: We do a lot of reading when the fish are not biting!

Senator Hays: I do not propose to speak at length. Senator Marshall has explained the bill very well. However, I want to make some comments on a controversial provision of the bill, namely, clause 8, which amends section 26 of the act. It is controversial in that it substantially changes the incentive that grain producers have to use producer cars, and there is some concern on the part of the wheat pools as to what effect that will have on the long-term viability of the methods that we have in Canada of marketing and selling grain, which Senator Marshall was so laudatory of in his comments.

The section in question deserves some attention. It is an amendment, as I said earlier, to section 26(2), and reads in part:

> ... the Board may fix and pay in respect of any pool period a sum per tonne to each producer who has sold and delivered wheat to the Board in a railway car during the pool period.

The effect of that is difficult to identify at this stage, and I hope that the Agriculture Committee will have an early opportunity to hear witnesses to clarify that issue. I quote, for instance, from the media report *Agriweek* to the effect that this amendment

> ... would provide for refunds of around $2.75 a tonne to shippers using producer cars to ship board grains, representing handling, storage and interest expenses ...

When I look at the proceedings before the Commons Agriculture Committee I see a response from a spokesman for the Canadian Wheat Board, their solicitor, Mr. Anders Bruun. He says in part:

> ... clause 8, which does provide for that additional payment on producer cars—I can indicate that the provision is drafted sufficiently broadly to provide for a range of payments that could range from nothing to the full value of those charges,

He goes on later to say:

> So the legislation itself has built right into it a great deal of flexibility as to amount and timing of payment and as to terms and conditions to be attached to the payment, and all of it is, as indicated in the initial wording of the amendment called for by clause 8, subject to the approval of the Governor in Council.

The potential problem is that with that much lattitude we would be passing legislation of which we would not know the effect. As I say, it may be that that can be clarified in committee hearings on the bill.

That concern, I would point out to honourable senators, prompted an attempt in the House of Commons to amend the bill. So that you will have the benefit of knowing how the opposition proposed to deal with that problem, I will quote from the proceedings of the Commons, where it was moved by the Liberal critic, Mr. Foster, and supported by the New Democratic critic, that the portion of the amendment I have just read have added to it the words "railway car during the pool period", which ends the sentence. This is the sentence that is the operative part of the amendment:

> The said sum shall reflect an equitable allocation of the costs incurred by the Board to maintain the country delivery points.

In other words, an attempt to narrow that broad discretion.

Honourable senators, as I said earlier, the rest of the legislation deals with changes which are necessary from time to time to keep an act current. They are well explained, and I do not think it is proper for me to say whether I am supportive of all of it. I would only question clause 8. I would have to await what is heard in our committee hearings, and, if there are good answers to the questions—some of which I have put here—then I will be supportive right down the line. If there are no good answers, then it may be that some criticisms will be directed to that particular clause of the bill.

Honourable senators, those are the only comments I have, other than, of course, to voice the hope that the mover will recommend that this be referred to the Agriculture Committee at the appropriate time.

Some Hon. Senators: Hear, hear!

Hon. H.A. Olson: Honourable senators, I should like to make a few comments in case I am not in attendance before the bill goes to the committee.

The explanation given by Senator Marshall was adequate for his position, but he failed to deal with one point that is probably more important than anything else in this bill, and that is that these producer cars give a grain producer an option. If he is a captive of any one of the grain companies, including the wheat pools, and he cannot make a satisfactory deal with the local operator or a local agent, he can order a car and ship it himself.

Sometimes that does not sound terribly important, but it becomes important when there is only one elevator or one company running all of the elevators at a delivery point. That, honourable senators, is the case in many places in Canada. You do not have any option. There is one company, and, in most cases, it is the wheat pools who own all of the elevators at a delivery point; so you have to deal with them. I happen to

know that, because that is the case along the entire line where I live. If you do not make a satisfactory deal with the elevator for grain and other things, you are helpless, except that you can order a producer car and ship it to the Wheat Board without taking the unilateral decision of that elevator agent.

● (1650)

The wheat pools often attempt to indicate that they are there in the interests of their members. Most of the time, in my experience, their interest in the corporation of the wheat pool is far more important to them than is the welfare of their members. That is unfortunate, but it is true. Therefore, I support a great deal of this bill. I certainly support clause 8, which gives the government authority to make sure that there is an equitable distribution of costs.

Honourable senators, I know that many of these elevator companies—most of them the wheat pools—believe that, even if a producer users a producer car, he somehow has an obligation to pay to the elevator companies some of the costs of maintaining the country's elevator system. Many of these companies make that argument and that is why they are so concerned about clause 8 of this bill.

Senator Marshall and Senator Hays, the chairman of the Agriculture Committee, have both indicated that they would like to send this bill to that committee so that witnesses can be heard. I want to say now that I would want from those witnesses some accounting of the actual costs to the railway companies and to the Wheat Board—costs that are involved in taking that producer car of grain from the railway siding on the prairies where it is loaded to the terminal elevator at the coast. I would like a clear accounting of those costs, not a bunch of inflated or complicated figures that take into account all the rest of the overhead costs of the elevator companies in maintaining their elevators and that sort of thing.

I want to say in conclusion, honourable senators, that, at the end of the day—an expression that seems to be quite popular these days—at the end of the consideration of this bill and at the end of the assignment of costs, let us make sure that there is an alternative for the producers, particularly at these one-company or one-cooperative delivery points, so that they are not captives of these companies and do not have to take what they dictate—and, believe me, they do that sometimes, and sometimes it is terribly unfair. This bill, if it is handled properly—and I am not sure that it will be—will go some distance towards doing justice in this area.

On motion of Senator Frith, debate adjourned.

NATIONAL PARKS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Eileen Rossiter moved the second reading of Bill C-30, to amend the National Parks Act and to amend an act to amend the National Parks Act.

She said: Honourable senators, it is my pleasure to take this opportunity to speak in support of Bill C-30.

The national parks of this country are more than the sum of their trees and bears, picnic tables and wildflowers, the historic buildings, wilderness, and the visitors they attract. Our national parks express the unmistakable national heritage of Canada, our territorial reality as a people. They are the raw material from which we have shaped much of our national consciousness in the past, just as they enrich our lives today.

Our national parks impose difficult responsibilties—responsibilities for which Parliament is ultimately accountable. Each year some 19 million people visit our parks. Their perception of how their valued public possessions are managed and operated is of inestimable importance.

Our parks are a part of each Canadian's common heritage. As parliamentarians, we have an opportunity today to play an important role in deciding how the stewardship of this heritage can be most effectively enhanced.

The legislative mandate for this stewardship and protection of our national parks is the National Parks Act. With the exception of a few amendments in 1974, this legislation has not been significantly altered since it was enacted in 1930. During the past half century the attitude of Canadians towards their natural heritage has changed dramatically. The parks system is now widely recognized as a priceless national treasure that must be properly protected and carefully used.

The amendments proposed by the Minister of the Environment will strengthen the National Parks Act. They will provide the people responsible for the operation of our national heritage with the proper management tools for the job. The amendments will define appropriate limits to development within the parks, while providing mechanisms to ensure the preservation of those marvelous natural assets which attract many millions of visitors a year.

The legislation will get tough with poachers who prey upon the wildlife assets of the parks and who have been openly contemptuous of the current penalties. The theft of our wildlife heritage must be stopped. The current $500 maximum fine for poaching is one of the most glaring examples of why the National Parks Act must be brought into the 1980s.

The penalties now in force under the act amount to little more than licence fees for well-heeled trophy hunters. They spend thousands of dollars to bag animals we consider national treasures. Poachers find our national parks a highly tempting hunting ground. That temptation must be made untenable.

To do this, the Minister of the Environment is seeking to implement the stiffest poaching fine in the world. He has proposed—and I believe we should support him—a maximum fine of $150,000 and/or imprisonment for up to six months for the poaching of specific trophy and endangered species. He is further proposing to add stiff penalties for the poaching of other wildlife species to ensure that these national deterrents equate or exceed those of the provinces and territories.

Honourable senators, parks are more than pieces of land. They can play many roles. They may be an important element in our commitment to the integrity of Canadian sovereignty in the Arctic. In that context, with the passage of this bill,

Ellesmere Island National Park Reserve in the Northwest Territories will be established. The designation of Ellesmere as a national park reserve is primarily to protect this fragile area from environmental damage; yet it will reinforce Canada's sovereignty in the high Arctic.

Canada's national parks encompass more than 180,000 square kilometres. In considering the bill before us, we must take into account the fact that there is no such thing as a "typical park" in Canada.

What is the similarity between Nahanni's majestic canyons, the waterways of La Mauricie and the sand dunes of Prince Edward Island National Park? Canada's parks system offers everything from isolation to scenic parkways. What is right for one park could be and often is totally wrong for another. The challenge is to know the difference and regulate each according to its own special natural resources and priorities.

The government is asking for provisions within the National Parks Act to support the professional management of these lands, a professionalism developed through more than a century of experience and based on plans developed specifically for each park, with full public consultation.

Every park is different, so each requires its own approach. Some parks are and should remain almost inaccessible museums of our natural heritage. Others can and will have more visitors, without being damaged.

There are vast areas of national park lands that are extremely sensitive. Man's intrusion increases the potential for damage to this pristine natural heritage. To protect these areas, it has been park policy to zone them as "wilderness" and leave them in their natural state for the enjoyment of visitors. Development, except that needed for public safety and the protection of natural resources, is prohibited.

However, in this day and age, policy alone is not considered a strong enough protection. It is imperative that such policy be translated into legislation to ensure a stronger and continuing level of protection. In thinking about the range of our national parks, we are going to face difficult questions in the future. We must find ways to conserve the pristine beauty of these parks and, at the same time, to amuse, thrill and provide a sense of well-being for our people—especially our youth.

● (1700)

We must find new ways to keep up with increasing demands for service amidst the shrinkage of available funds. National parks are not a frill and not peripheral to Canadian experience—they are its very marrow.

The National Parks Act is the legislative umbrella under which Parliament exerts its control over these national treasures. The bill we are being asked to consider constitutes a complex package which has been several years in the making. Its recommendations have not been conceived in isolation. They are the result of years of dialogue and negotiation among federal ministers, provincial governments, special interest groups and, most importantly, the citizens of Canada. Among its key provisions is the authority to establish and manage yet a new category of national park, namely, the National Marine Parks.

[Senator Rossiter]

Coming from an island province, I can particularly appreciate the need for this important step in preserving our marine heritage.

Honourable senators, the changes the government is seeking are essential if we are to continue to protect our national parks for present and future generations. Given the high level of interest across the country in the progress of these amendments, I ask your support in approving this bill as quickly as possible.

On motion of Senator Frith, for Senator Kenny, debate adjourned.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I believe there is general agreement that all remaining orders and inquiries stand.

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

Hon. Senators: Agreed.

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Tuesday next, July 26, 1988, at 2 o'clock in the afternoon.

Motion agreed to.

The Senate adjourned during pleasure.

At 5 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Antonio Lamer, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy 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 Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

> An Act to implement an agreement between the Government of Canada and the Government of Nova Scotia on offshore petroleum resource management and revenue

sharing and to make related and consequential amendments (*Bill C-75, Chapter 28, 1988*).

An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof (*Bill C-77, Chapter 29, 1988*).

An Act to amend the Criminal Code (victims of crime) (*Bill C-89, Chapter 30, 1988*).

An Act for the preservation and enhancement of multiculturalism in Canada (*Bill C-93, Chapter 31, 1988*).

An Act to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to repeal certain enactments in consequence thereof (*Bill C-111, Chapter 32, 1988*).

An Act to amend the Canada Labour Code (*Bill C-124, Chapter 33, 1988*).

An Act to provide for incentives to assist in financing exploration for mineral resources and hydrocarbons in Canada and to amend the Canadian Exploration and Development Incentive Program Act (*Bill C-137, Chapter 34, 1988*).

An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof (*Bill C-55, Chapter 35, 1988*).

An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof (*Bill C-84, Chapter 36, 1988*).

An Act to authorize the Montreal Trust Company of Canada to be continued as a corporation under the laws of the Province of Quebec (*Bill S-17*).

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, July 26, 1988, at 2 p.m.

THE SENATE

Tuesday, July 26, 1988

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

Prayers.

RAILWAY SAFETY BILL

MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons returning Bill C-105, to ensure the safe operation of railways and to amend certain other acts in consequence thereof, and acquainting the Senate that they have agreed to the amendment made by the Senate to this bill without amendment.

ELECTORAL BOUNDARIES READJUSTMENT ACT

BILL TO CHANGE NAME OF ELECTORAL DISTRICT OF CHAPLEAU—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-308, to change the name of the electoral district of Chapleau.

Bill read first time.

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

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

LOBBYISTS REGISTRATION BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-82, respecting the registration of lobbyists.

Bill read first time.

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

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

ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE BILL

REPORT OF COMMITTEE

Hon. R. James Balfour, Deputy Chairman of the Standing Senate Committee on Energy and Natural Resources, presented the following report:

Tuesday, July 26, 1988

The Standing Senate Committee on Energy and Natural Resources has the honour to present its

TENTH REPORT

Your Committee, to which was referred the Bill C-121, An Act to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain Acts in consequence thereof, has, in obedience to the Order of Reference of Thursday, July 21, 1988, examined the said Bill and has agreed to report the same without amendment.

Respectfully submitted,

JAMES BALFOUR
Deputy Chairman

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

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

[*Translation*]

INDIAN LANDS AGREEMENT (1986) BILL

REPORT OF COMMITTEE

Hon. Arthur Tremblay, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, July 26, 1988

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

TWENTY-THIRD REPORT

Your Committee, to which was referred Bill C-73, An Act to provide for the implementation of an agreement respecting Indian lands in Ontario, has, in obedience to the Order of Reference of Thursday, July 21, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

ARTHUR TREMBLAY
Chairman

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

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

QUESTION PERIOD

[*English*]

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is not here today; he is in Newfoundland on government business. I shall be pleased to take as notice any questions honourable senators wish to place with me.

FINANCE

VALUE OF CANADIAN DOLLAR

Hon. Ian Sinclair: Honourable senators, my question could quite easily be handled, I am sure, by the Deputy Leader of the Government in the Senate. In view of his background in charge of finance in the outstanding province of Newfoundland, I wonder if he could inform honourable senators whether or not he is happy—in view of the exports to the United States from that province—with the relationship, as it now exists, between the Canadian dollar and the American dollar.

Hon. C. William Doody (Deputy Leader of the Government): I certainly thank the honourable gentleman for his kind words. Whether I am happy or not is rather irrelevant, but I will certainly seek the information he has requested.

FOREIGN AFFAIRS

Hon. Jacques Flynn: Honourable senators, I have a question for the new chairman of the Standing Senate Committee on Foreign Affairs, but I suppose I will have to postpone it.

Senator Frith: The committee is now meeting.

Senator Flynn: They are meeting? Very good.

Senator Frith: You could ask him your question in the committee.

Senator Flynn: It would not have the same value, I am sure.

DELAYED ANSWER TO ORAL QUESTION
TIBET

DALAI LAMA'S FIVE-POINT PEACE PLAN AND NEW INITIATIVE—GOVERNMENT POSITION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have one delayed answer. It is in reply to a question raised by Senator Frith on June 14 and 21, 1988, regarding Tibet—Dalai Lama's Five-Point Peace Plan.

Honourable senators, this is a rather lengthy reply. With the permission of the Senate, I ask that it be printed as part of today's proceedings.

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

Hon. Senators: Agreed.

(*The answer follows:*)

As noted by Senator Murray on June 21 in setting out the government's position on Tibet, we regard the Dalai Lama as a senior world religious figure but do not recognize him as the temporal ruler of a Tibetan "state". In view of the government's position that Tibet is an autonomous region of the People's Republic of China, as established in the Chinese constitution, it would therefore be inappropriate for the government to take a position on proposals put forward by the Dalai Lama which impinge upon questions of Chinese sovereignty.

While it is true that a resolution expressing general support for the Dalai Lama's proposals was attached to the Foreign Relations Authorization Act passed by the U.S. Congress last year, the U.S. administration explicitly distanced itself from this action. In fact, the administration indicated it would veto the resolution if it were presented as a separate bill, as the sponsors originally intended. The U.S. government's stated position is similar to that of the Canadian government. Nevertheless, the Congressional action has become a substantive irritant in Sino-U.S.A. relations.

The government of the Federal Republic of Germany also distanced itself from a similar resolution voted by the German Bundestag. The vote taken by the European Parliament in Strasbourg has no constraining effect on institutions of the European Economic Community nor on any of the European partner countries.

The government remains concerned about the human rights situation in Tibet and as recently as July 3 once again drew these concerns to the attention of the Chinese authorities at a senior level during formal political consultation.

CANADA GRAIN ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-112, to amend the Canada Grain Act and other acts in consequence thereof.

Bill read first time.

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

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

WESTERN GRAIN STABILIZATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-132, to amend the Western Grain Stabilization Act.

Bill read first time.

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

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

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

MESSAGE FROM COMMONS REFERRED TO NATIONAL FINANCE COMMITTEE

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

That the Message from the House of Commons concerning the Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, be referred to the Standing Senate Committee on National Finance for consideration.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, before I move into the content of my speech I should like to say that we are prepared to pass this motion to send the message to the National Finance Committee today.

The message from the House of Commons to the Senate, on motion of Senator Murray and now to be sent to the National Finance Committee, cannot be accepted as a serious effort by the government to deal with the issues raised by Bill C-103. It shows all the hasty and ill-considered preparation that was obviously involved in putting it on the Commons notice paper within 24 hours of receiving the message from the Senate.

The message from the House of Commons can be attacked and questioned from two angles: first, the assertion that "grants of aid and supplies" are set out in Bill C-103; second, the assertion that the Senate has "altered the ends, purposes, considerations, conditions, limitations and qualifications" of the yet to be identified "grants of aid and supplies". What we have are assertions and assertions alone—no proof, no identification of the relevant clauses of Bill C-103 in which these grants of aid and supplies are allegedly found. The source of these assertions in the motion, the Minister of State (Treasury Board), has been either unwilling or unable—probably the latter—to back up the message by even citing the specific clauses of Bill C-103 containing grants of aid and supplies, let alone by listing the alterations made by the Senate to the "ends, purposes, considerations, conditions, limitations and qualifications" of these grants of aid.

The hearings of the Standing Senate Committee on National Finance, to which is being referred the message, will provide an opportunity to hear testimony from the Minister of State (Treasury Board) on the factual evidence on these points contained in the hitherto unsupported motion.

• (1410)

These Senate misdemeanours have all been committed "contrary to Standing Order 87", we are further advised by the Minister of State and by the message.

I shall return to that point in some detail later, but it should be obvious to all that the Standing Orders of the House of Commons do not establish the powers of the Senate. The latter come from the Constitution and cannot be added to, or subtracted from, by the Standing Orders of the House of Commons.

Let me say at this point that I am not in any way attempting, in my speech, to limit or reduce the existing powers of the House of Commons; what I will be doing is underlining the necessity of asserting the traditional powers of the Canadian Senate.

It cannot be emphasized too strongly that the message from the House of Commons is not based on the ruling of the Speaker of the House of Commons, which was given three days after the message of Mr. Lewis was put on the notice paper. In fact, the Speaker of the House of Commons did not pronounce on the question raised in the motion and message of the government, namely, the financial privileges of the respective houses.

I quote from Mr. Speaker Fraser's ruling:

> The Speaker of the House of Commons by tradition does not rule on constitutional matters.

—and he explains this statement by saying:

> It is not for me to decide whether the Senate has the constitutional power to do what it has done with Bill C-103.

I should note that the Speaker of the Senate, in his ruling of June 7, 1988, showed no such restraint, and found that splitting Bill C-103 in the Senate "would be in contravention of Section 53 of the Constitution Act, 1867".

Mr. Speaker Fraser did find a breach of privilege in that the Senate message did not seek the concurrence of the House of Commons in dividing Bill C-103. We all know how the deletion of the request for concurrence in our message came about. We are all responsible for it. Senator Flynn moved that the part of the message requesting concurrence be deleted. He explained by saying:

> We should inform the House of Commons that that is what we have done, but that we do not necessarily ask for concurrence.

Senator Frith replied:

> I think we should ask for concurrence, but, if the government does not want us to, that is fine.

Of course, Senator Flynn, with Senator Doody's concurrence, with my concurrence and with the concurrence of all of us, deleted the request for concurrence which was contained in the original message. I do not think any of us can fail to accept our responsibility jointly for removing the request for concurrence which had been in the message to the House of Commons as originally read by our Speaker in his Chair.

Honourable senators, it is worth reading two paragraphs from Mr. Speaker Fraser's comments because two important conclusions flow from them. I quote his observations as follows:

> A Canadian precedent does exist for a consolidation of two Commons Bills into a single legislative measure by the Senate. That took place on June 11, 1941, with a message from their Honours, from the Senate, asking for the concurrence of this House. The Commons agreed with the Senate proposal, that is, a proposal to take two Bills from this place and put them into one Bill. The Commons agreed with the Senate proposal waiving its traditional privilege, and a single Bill was eventually given Royal Assent. I underline that that was the act of this House in waiving its tradition of privilege and accepting the invitation of the Senate to put two Bills together.

Then Mr. Speaker Fraser went on to state:

> If it is admitted that the Senate can consolidate two Bills, why then can it not divide one Bill into two or more legislative measures? The answer is at least in part in the message. In the 1941 case just alluded to the Senate specifically sought the concurrence of the House for its action. Apparently it was the disposition of this place to accept it. In the message received last Friday relating to Bill C-103, the Senate does not seek the Commons' concurrence in the division of the Bill, it simply informs this House that it has done so, and returns half of a Bill.

So we did sin in not seeking the concurrence of the House of Commons, but I would call that a venial sin.

Senator Flynn: You would rather have sinned a little than not have sinned at all!

Senator MacEachen: It seems to me, as I said earlier, two conclusions flow from Mr. Speaker Fraser's ruling which are of interest to us in examining the fall-out, procedurally and constitutionally, from a very simple, on its face, motion to divide a bill.

The first conclusion is that in the future the Senate need not be inhibited on those rare occasions where circumstances justify its dividing a Commons bill, provided the proper request for concurrence is made. In fact, that defect could be remedied in this case by a further message in correct form to the House of Commons. We know, of course, such an effort would be futile, because the objections of the government were not based on the form of the message.

The second conclusion that I draw is that the precedent of 1941, cited by the Speaker, whereby the Senate consolidated two House of Commons bills into one, did not encounter the objection that the consolidated bill had originated in the Senate, as was contained in the ruling of our Speaker in the case of dividing Bill C-103 into two bills.

Of course, in my view, that same reasoning should apply in both cases. In fact, the consolidated bill—which was not regarded as having originated in the Senate simply because it had been united in the Senate—was clearly a money bill, and that is a helpful illumination of procedure in the Canadian Senate.

Before dealing more generally with these issues I wish to refer to the tendency to accept, as it were, blindly by an act of faith, that once a financial recommendation of Her Excellency is attached to a bill, such attachment automatically transforms the bill into a money bill, regardless of its contents.

The attachment of a financial recommendation to a bill is not conclusive proof at all that it is a money bill. The test must be whether it is a bill "for the appropriation of any part of the public revenue". If it meets that test, it is a money bill and, accordingly, must, in conformity with section 54 of the British North America Act, be recommended by Her Excellency. But this test of content has not been applied to Bill C-103—no one, in adjudicating upon that bill, has applied it. The reverse test was applied.

● (1420)

Honourable senators, here are two examples of the performance of this act of faith. In reference to Bill C-103, Mr. Speaker Fraser said:

> There is a requisite that in a Bill that is going to call upon the expenditure of funds, a financial recommendation of Her Excellency the Governor General is necessary. So this Bill is in a very real sense a financial Bill.

Mr. Speaker Charbonneau said:

> Bill C-103 is a government bill and a money bill, having been recommended by Her Excellency the Governor General.

The assumption is that because it bears a royal recommendation it is, therefore, a money bill. That is not an entirely satisfactory approach.

Senator Flynn: It is beside the point, anyway.

Senator MacEachen: It is the point. If it were possible simply to produce a royal recommendation and, therefore, create a money bill, one would not even have to look at the contents of the bill. The contents of the bill dictate whether it is a financial bill. If it is a money or financial bill, then a royal recommendation is necessary—not the reverse.

The reasoning in this case has been to say, "Here is a royal recommendation; therefore, it is a money bill." Has anyone stopped to ask who affixes the royal recommendation? Who

makes the judgment and what criteria are applied in deciding that a royal recommendation is to be affixed? Are the criteria generally understood or generally accepted? Maybe somebody could enlighten me. This is certainly not a public process. It is a very obscure decision-making process, conducted privately, and I think we are entitled to know from somebody, rather than to act on faith, the reasons why Bill C-103 is a money bill. We have not been told, as we should have been, which clauses of the bill appropriate public money. Please tell me, I ask those authorities that have made this decision, which clauses appropriate public funds?

Honourable senators, the situation becomes less clear if one puts side by side the ruling of Mr. Speaker Fraser and the ruling of Mr. Speaker Charbonneau. Mr. Speaker Fraser refused to make a constitutional judgment while Mr. Speaker Charbonneau did make such a judgment in the words I have read. Mr. Speaker Fraser did not say whether the financial privileges of the House of Commons had been breached, because such a conclusion would be a constitutional judgment, which, in his opinion, is not customary for the Speaker of the House of Commons to make. Mr. Speaker Charbonneau did rule, by implication, if not directly, that the motion made by Senator Graham breached the financial privileges of the House of Commons. We have a rather ironic situation here in that the Speaker of our chamber found that we had breached, in the motion, the financial privileges of the House of Commons—a finding the Speaker of the House of Commons did not wish to come to.

In its simplest form, the question comes down to this: Is Bill C-103 a money bill? If it is, the further question must be addressed: Does this fact render it immune from modification by the Senate? That is the import of the message which we have received from the House of Commons.

I have already argued that the presence of a royal recommendation or a financial recommendation does not necessarily a money bill make. It is not conclusive proof that it is a money bill.

There is another point that must be made. Bill C-103 does not provide general funding for the Atlantic Canada Opportunities Agency. That funding is provided for in the Estimates. Even Donald McPhail, the president of the Atlantic Canada Opportunities Agency, in the National Finance Committee, testified that there were no dollars for the agency in Bill C-103.

When one examines Bill C-103, one finds the following provisions that deal with the payment of moneys:

Clause 5(4): "reasonable travel and living expenses" for the members of the advisory boards that "may" be established. The advisory boards, I say parenthetically, have been established and, presumably, their expenses—travel and living—are being paid by funds provided through the Estimates.

Clause 11(4): remuneration for the president of ACOA. He is being paid now—he told us so—by funds provided for in the Estimates.

Clause 18(7): remuneration and expenses for the members of the Atlantic Canada Opportunities Agency board.

Clause 31(1): a salary for the vice-president and fees for the board of directors of Enterprise Cape Breton Corporation.

Clause 31(2): travel and living expenses for ECBC directors.

Clause 32(2): salaries for the employees of ECBC.

There is, of course, clause 57, which, under the Salaries Act, provides for the remuneration of the minister responsible.

In this bill we have authorization for salaries, remuneration and expenses of the president, vice-president, employees, directors and the minister. Apparently, for this reason the bill was introduced with a royal recommendation. In consequence, His Honour, the Speaker in the other place, referred to the bill as a "money bill" or a "financial bill". If this is a money bill, it is only because the loosest definition has been applied to the term, because the bill does not appropriate a single dollar of the public revenue.

Take a look at the Nova Scotia offshore bill; take a look at the Bretton Woods bill. In those bills the appropriations are distinctly listed. Not so here. I am quite puzzled that Bill C-103, if it is a money bill, has been treated so differently from the treatment given to the Nova Scotia offshore bill and the Bretton Woods bill, where the appropriations are identified in the columns.

If one were to accept the idea, upon proof, that Bill C-103 is a money bill, how have we, as I have already asked, "altered the ends, purposes, considerations, conditions, limitations and qualifications of the grants of aid and supplies" by dividing the bill?

We passed, without change, Part I of the bill and held over Part II for further consideration. As far as ACOA is concerned, the minister, president, advisory board members and ACOA directors will still get all their money. They will get it, of course, provided that Parliament has already supplied money to the Crown, or in the future supplies money for this purpose. We have not added any conditions, limitations or qualifications, and yet that is exactly what the motion accuses us of doing. The message claims that these conditions and limitations relate to "the grants of aid and supplies set out in the bill". Are we now to learn that, in addition to being a money bill and a financial bill, Bill C-103 is also a supply bill?

• (1430)

The recommendation contained in the first reading copy of Bill C-103 states:

> Her Excellency the Governor General recommends to the House of Commons the appropriation of public revenue under the circumstances, in the manner and for the purposes set out . . .

We have not changed the circumstances, the manner or the purposes. That is a fact.

The message from the House of Commons, in the name of the Minister of State (Treasury Board), is not based on any fact. It has not been backed up in the speech made by the minister in the House of Commons saying, "These are the

grants in aid and supplies that are in the bill, and here are the sections. This is where the Senate has changed them"—according to the minister, "contrary to Standing Order 87," which, not only by implication but also by direct assertion, is to govern the powers of the Canadian Senate.

Maybe at this point I should go a bit further into the question of money bills. It might be interesting to take a look at British parliamentary law and practice on money bills, although it cannot be taken as a complete guide for the Parliament of Canada. That is so because of two important reasons.

First, in 1867 it was understood that the new Dominion was to be a federal union and that one of the chief tasks of the Senate was to protect the smaller provinces against both unfair taxation and unfair spending by a government with a large majority in the House of Commons.

An Hon. Senator: Hear, hear!

Senator MacEachen: Second, in 1911 the United Kingdom Parliament introduced a suspensive veto for both money bills and other bills. This was to reduce the power of the peerage. The provisions of that act do not apply to Canada.

The constitutional powers of the House of Lords are smaller than those of the Senate of Canada. Nevertheless, we would find it highly instructive to examine British law and practice governing what are called "money bills", because what is now being claimed by the Canadian House of Commons goes far beyond what is claimed by the British House of Commons.

British parliamentarians use the term "money bills" in two ways: (a) for the purposes of the Parliament Act, and (b) in making historic claims of privilege relating to what are called "aids and supplies".

Let us look at the definition of a "money bill" for the purposes of the Parliament Act.

According to *Erskine May*'s summary, the Parliament Act defines a money bill as a public bill which contains only provisions dealing with taxation, appropriation, loans and subordinate matters incidental to those subjects—only provisions dealing with taxation, appropriation and loans!

Using that definition, is Bill C-103 a money bill? Clearly, it does not deal with taxation. Does it, for any purpose, impose charges on the Consolidated Revenue Fund or on any money provided by Parliament? If so, does it deal only with such matters? The answer to all of these questions is "no." The Speaker of the British House of Commons would have had no problem. Clearly, Bill C-103 is not a money bill.

We now come to the restrictions on the House of Lords with regard to money bills arising from the privileges of the House of Commons respecting aids and supplies. This refers to bills that tax and bills that appropriate revenue from the Consolidated Revenue Fund.

The British Commons claims that the House of Lords may not introduce or amend such bills. However, aids and supplies money bills must not contain provisions for other purposes. *Erskine May*, seventeenth edition, at page 836, states:

> In former times, the Commons abused their right to grant supplies without interference from the Lords, by tacking to supply bills provisions which, in a bill that the Lords had no right to amend, must either have been accepted by them unconsidered, or have caused the rejection of a measure necessary for the public service. This practice infringed the privileges of the Lords, no less than their intereference in matters of supply infringes the privileges of the Commons; it has been met by the Lords by standing order No. 45, embodying a resolution:
>
> The annexing of any clause or clauses to a bill of aid or supply, the matter of which is foreign to and different from the matter of the said bill of aid or supply, is unparliamentary, and tends to the destruction of constitutional government.

Erskine May then goes on to say:

> On no recent occasion have clauses been irregularly tacked to bills of supply:—

I submit, honourable senators, that Bill C-103 is not a taxation bill; neither is it an appropriation bill. However, if it were—if it did grant aid or supply, as claimed by the message of the House of Commons, it is a bill in respect of which the Commons cannot claim privilege, because the bill contains provisions which neither tax nor appropriate.

As I mentioned earlier, the Minister of State in his message claims that the Senate has contravened Standing Order 87 of the House of Commons.

In his ruling of July 11, 1988, Mr. Speaker Fraser properly emphasized the importance the House attaches to its Standing Order 87. This Standing Order reads:

> All aids and supplies granted to the sovereign by the Parliament of Canada are the sole gift of the House of Commons, and all bills for granting such aids and supplies ought to begin with the House, as it is the undoubted right of the House to direct, limit, and appoint in all such bills, the ends, purposes, considerations, conditions, limitations and qualifications of such grants, which are not alterable by the Senate.

The Senate has never, to my knowledge—at least not from my research—accepted this particular assertion of privilege by the House of Commons.

In his comments the Speaker of the House of Commons cited Standing Order 87 as authority for the proposition that "the Senate is somewhat limited in its review of money bills". It is indeed true that we are somewhat limited in our treatment of such bills, but so is the House of Commons limited. The question is: Where are the limits on the Senate? The Senate has never claimed that it could increase the amount to be given to the Crown for any specified purpose by an appropriation bill, but this does not mean that it has ever concurred in Standing Order 87.

I could refer to some Canadian authorities on this point, but I will confine myself to a quotation from the 1987 edition of "The Government of Canada" by R.M. Dawson and Norman Ward on the question of Standing Order 87, which has been

referred to as the guiding principle in the message we have received from the House of Commons. The authors, who are well known and authoritative—and probably without any strong bias in favour of the Senate—state as follows:

● (1440)

> It is a fair statement that almost the only attention the Senate has given to this grand assertion is to ignore it. On the theoretical side the Senate has argued that if the constitution was intended to limit the Senate's power over money bills once initiated, it would say so. The Senate has insisted further that it could not discharge its functions as a guardian of provincial or regional rights if it had no power over money bills. What is more important is that the Senate has repeatedly amended bills that contained money clauses, and also bills that dealt exclusively with finance, including income tax bills. The Commons has accepted Senate amendments to money bills, usually adding a futile claim

—the words are the author's; not mine—

> that its acquiescence must not be considered a precedent. The Senate could, if practice is any guide, amend a money bill out of all recognition, so that in effect the bill was rejected.

Honourable senators, that passage appears at page 165.

I then came upon a document which was produced by the Senate itself in 1918. It was given to me by Senator Stewart and I found it very interesting, because in 1918 the Senate appointed a special committee to determine "The Rights of the Senate in Matters of Financial Legislation". Its conclusions are quite in accordance with the quotation I have read. The appointment of the special committee was made in 1918; it reported the same year. It is a report known as the Ross Report, after its chairman, Senator W.B. Ross—no doubt a man of financial probity, bearing a name like that!

This committee concluded, and I quote:

> That the Senate of Canada has and always had since it was created, the power to amend Bills originating in the Commons appropriating any part of the revenue or imposing a tax by reducing the amounts therein, but has not the right to increase the same without the consent of the Crown.

That is the conclusion of the Senate committee on the financial privileges of the Senate, which is supported by contemporary authors—all contrary to the message we have received from the House of Commons.

The same Ross Report goes on to explain "that rule 78 [now No. 87] of the House of Commons of Canada claiming for that body powers and privileges in connection with Money Bills identical with those of the Imperial House of Commons is unwarranted under the provisions of the British North America Act."

The report then goes on to say:

> The House of Commons cannot by passing Rules add to its powers or diminish those of the Senate. Rule 78 of the House of Commons is quite outside of the powers of that House.

So it is not a new issue we are faced with, honourable senators. The question is whether we will be as resolute in asserting the privileges of the Senate as were our predecessors in earlier years. So though, in the words of the Speaker in the other place, "the House of Commons has always considered Standing Order 87 . . . as setting out the special relationship between the . . . House of Commons and the Sovereign," the inescapable fact of the matter is that the Senate consistently rejected this unilateral declaration.

Consequently, as a matter of principle, and as a member of this chamber interested in maintaining the privileges of the chamber, I cannot find favour with that part of the message from the House of Commons declaring:

> The Senate has altered the ends, purposes, considerations, conditions, limitations and qualifications of the grants of aid and supplies set out in the Bill, contrary to Standing Order 87 . . .

If we agreed to that portion of the message, we would appear to be recognizing the paramountcy of Standing Order 87 even over the Constitution of Canada.

I applaud the Speaker and members of the House of Commons for asserting whatever privileges they think they can assert. However, I cannot agree to the imposition of their perceived privileges on to the members of this chamber. They cannot, by a House of Commons motion, strip the Senate of its constitutional right to participate in the legislative process, which includes consideration of money bills, for the benefit of the people in the provinces. The Senate, honourable senators, has never accepted this motion; it has never accepted the limitations contained in this motion and has never accepted any limitations beyond those which I have already mentioned.

When concluding his remarks on our message to the House of Commons, Mr. Speaker Fraser placed great emphasis on the privileges of that chamber:

> As Speaker of the House of Commons of Canada I must uphold the privileges of this place at all times, and I must also advocate them privately, publicly, and with vigor.

I say "amen" to that, because it is correct; let them uphold their privileges, but who is to uphold the privileges of the Senate? Who is to advocate at all times, privately, publicly and with vigor, the privileges of the Senate? The senators, I hope. I hope even Senator Barootes will join in supporting the traditional privileges and purposes of the Senate, and not for a momentary consideration accept the conclusions that are contained in the motion from the House of Commons.

Honourable senators, that is the situation as I see it. It is obviously a very important matter, because there have been procedural and constitutional issues flowing from the act we took in dividing the bill. The issues that have been raised present an opportunity to explore these matters further in the Standing Senate Committee on National Finance, and probably for that committee to do what Senator Ross and his committee did in 1918: namely, to reassert the powers of the

Senate accorded to it by the Constitution of Canada and exercised throughout the history of the Senate. This is an opportunity for the Standing Senate Committee on National Finance to examine and to lay down just what are the criteria of money bills. In other words, is the simple act of tacking a royal recommendation on to a bill conclusive proof that it is a money bill? I do not think so. I had never expected, when we made this simple, clean-cut effort to divide the bill, that it would give rise to such a plethora of constitutional and procedural questions.

I think it is good that it prompted these questions, because it will give us an opportunity to address some of the fundamental aspects of the relationship between the House of Commons and the Senate at a time when the Senate is exhibiting new vigour in the legislative process.

● (1450)

Some Hon. Senators: Hear, hear!

Hon. Douglas D. Everett: Will the honourable senator permit a question?

Senator MacEachen: Yes.

Senator Everett: Reviewing the Parliamentary Act of the United Kingdom, I gather that the word "only" is operative. That is, the bill must deal with appropriations or taxation only. Am I correct?

Senator MacEachen: That is my understanding of the summary of the Parliament Act given by *Erskine May*. It defines a money bill as one containing only appropriations and taxes and states that the practice of tacking-on is objectionable and that the purity of a money bill has to be maintained. That is my understanding.

Senator Everett: I have a supplementary question for the honourable senator. The honourable senator mentioned legislation involving the Hibernia offshore project. Whereas it might be considered a money bill under Canadian jurisprudence, it would not be considered a money bill under the Parliamentary Act of the United Kingdom because it, presumably, deals with matters other than just taxation and appropriation.

Senator MacEachen: If I have understood *Erskine May's* definition of a money bill, then, for a bill dealing with the Hibernia project to be a money bill under British terms, it would have to deal exclusively with appropriations. I have not pushed that argument beyond saying that, in the case of the bill with regard to the project offshore Nova Scotia, the drafters listed in columns the appropriations to demonstrate that there was an appropriation of public revenue.

Senator Everett: I was merely trying to get clear in my mind that, if that bill were a bill of the Parliament of the United Kingdom, it would fail because it is not a money bill under their definition.

Senator MacEachen: That is right.

Senator Everett: Thank you.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, I think the Senate owes a word of thanks to Senator MacEachen for this very interesting lecture on the rights and privileges of the Senate with respect to money bills.

It is useful, from time to time, to recall certain principles that should guide us in this respect. Unfortunately, I cannot review today every single argument and comment made by Senator MacEachen.

I simply want to get down to the bare bones of the problem at issue. We are talking about referring the terms of the message received from the House of Commons to the Committee on National Finance. The Committee is not in any way bound by the Commons message. It has no obligation to agree with its reasons. It simply has to decide whether or not to agree with the opinion of the House of Commons that the Senate should not have split Bill C-103.

The questions to be answered are first, whether Bill C-103 is a money bill, and second, what the definition is of a money bill. Senator MacEachen referred to the situation in Great Britain. The problem as I studied it at the time was, if I am not mistaken, that the Lords objected to the addition to appropriation bills of provisions that were not of a financial nature, for the purpose of withdrawing such bills from their scrutiny.

We in this Chamber have discussed the same issue many times, not from the same perspective but, simply, the inclusion of ordinary legislation within an appropriation bill.

Honourable senators will remember the so-called dollar items that were often amendments to legislation that was not necessarily of a financial nature. In this way, the amendments could be put through as part of an appropriation bill.

It is against this background that British parliamentary procedure has evolved. In this country, I believe I can safely say we have always defined a money bill as a bill that has financial implications. A bill to levy taxes has always been considered a money bill. A bill that authorizes expenditures, even if those expenditures must be more specifically authorized in an appropriation bill, has always been considered a money bill.

Bill C-103 contains a number of financial provisions, and Senator MacEachen mentioned a few. I don't think it is necessary to repeat these in detail, but I would like to mention sections 35, 36 and 37 which are listed under the heading: *Financial provisions*. We see here everything that can be done under these provisions.

To deal with the problem, in Westminster it was decided that a money bill was a bill declared as such by the Speaker. The Speaker has the last word, but it is still a matter of opinion, and he may be wrong.

Similarly, the Speaker of the House of Commons in our Parliament decided that what we had before us as Bill C-103 was a money bill. Here, the decision is debatable. As he said, although he did not want to judge the issue from the constitutional point of view, he could still judge at the factual level. Are these financial provisions, yes or no? That was the basis on which Mr. Speaker Fraser made his decision.

Senator MacEachen referred to the amendment we made to the message addressed to the House of Commons, deleting our request to the House for concurrence. Personally, my interpretation of the remarks of the Speaker of the House of Commons is that if we want to split a money bill, we must ask the consent or concurrence of the House of Commons before doing so. In fact, it was Senator MacEachen who forced the Senate to do this, by ordering the committee to split the bill. It was an order. It was done, the committee did so. The committee referred only part of the bill back to the Senate. The committee said: Send a message to the House of Commons to the effect that we have split the bill and are sending only half of the bill, reserving the right to send the other half later on.

That is just what I did not agree with, that we ask the House of Commons to concur in this decision because we had not asked for its consent beforehand. If we had asked for its consent previously and the House had said, "Yes, all right, go ahead and divide it", that would have been fine. But it was a money bill and involved Her Excellency's recommendation to Parliament to do a certain thing as specified in the bill, which was in two parts. The condition was that both parts be there for the recommendation to receive Parliament's approval. Both parts had to be there. The Senate had to ask before acting as it did. If we had asked the House of Commons then, perhaps it would have agreed. But to do so afterwards may have been rather insolent, not impolite, as Senator Frith suggested.

In any event, I think that we have discussed some very interesting subjects. The specific problem that we have to solve now is whether we further delay passage of Bill C-103 as a whole or whether we continue to raise arguments on our authority in bills like this one. We can continue discussing it. But it is much more urgent to have the National Finance Committee decide to refer the bill as a whole to us so that it can receive Royal Assent as soon as possible.

Hon. Gildas L. Molgat: Honourable senators, I would like to ask a question. Did I understand you correctly, Senator Flynn, as saying that in this case the Speaker of the House of Commons decided it could be considered a money bill?

Senator Flynn: That is what Senator MacEachen said too.

Senator Molgat: Do you agree that the Speaker of the House of Commons has this right in our Canadian system, according to our rules, practice or custom?

Senator Flynn: Honourable senators, no. I clearly stated that the Speaker in Westminster has this power. I admitted that here, he does not have this power.

Since I have the opportunity, I would like to mention Standing Order 87 of the House of Commons. In this regard, I agree with Senator MacEachen. The mere fact that the House of Commons says something does not change the Constitution.

The problem now is to settle the matter of Bill C-103 rather than see whether we really had the right to proceed as we did.

Motion agreed to and message from House of Commons referred to the Standing Senate Committee on National Finance.

[Senator Flynn.]

• (1500)

[*English*]

OFFICIAL LANGUAGES BILL

THIRD READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government) moved the third reading of Bill C-72, respecting the status and use of the official languages of Canada.

Hon. Dalia Wood: Honourable senators, as chairman of the Special Committee of the Senate on Bill C-72, respecting the status and use of the official languages of Canada, it gives me pleasure to report Bill C-72 without amendment.

At a time when the press and the government are pointing to the number of bills piling up awaiting treatment by the Senate, I wish to point out that Bill C-72 has been before this house for less than a month whereas it took those in charge of the other place about a year to adopt it in its present form. So much for the relative dilatoriness of the Senate.

During the debate on second reading I outlined my reasons for supporting the basic principles and approach of this bill toward furthering the equality of the two official languages and the protection of linguistic minorities. I supported it because it will have a quasi-constitutional impact due to its primacy over other legislation, because of its executory nature, its incorporation of the parliamentary resolution of 1973, and because of its wording, which is more explicit than that of the 1969 act. It may even have the effect of counterbalancing any provincial legislation that affects the language rights of Canadians. I hope that is so. It also provides for parliamentary oversight by a committee to review the application of the act, its regulations and directives and the implementation of the reports of the Commissioner of Official Languages, the President of the Treasury Board and the Secretary of State.

Notwithstanding these and other safeguards, I still have a number of doubts about the determination of this government to apply the measures provided for by the bill as fully in the province of Quebec as in the rest of the country. Clauses 41 and 42 set out government policy and commitments. Clause 41 states:

> The Government of Canada is committed to
>
> (a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and
>
> (b) fostering the full recognition and use of both English and French in Canadian society.

Clause 42 reads as follows:

> The Secretary of State of Canada, in consultation with other Ministers of the Crown, shall encourage and promote a coordinated approach to the implementation by federal institutions of the commitments set out in section 41.

Clause 43 sets out in more specific terms the mandate of the Secretary of State to advance the equality of status and use of French and English in Canadian society. Among other things, he is empowered to take measures to do the following:

(a) enhance the vitality of the English and French linguistic minority communities in Canada and support and assist their development;

(d) encourage and assist provincial governments to support the development of English and French linguistic minority communities generally and, in particular, to offer provincial and municipal services in both English and French and to provide opportunities for members of English or French linguistic minority communities to be educated in their own language;

(f) encourage and cooperate with the business community, labour organizations, voluntary organizations and other organizations or institutions to provide services in both English and French and to foster the recognition and use of those languages;

and

(g) encourage and assist organizations and institutions to project the bilingual character of Canada in their activities in Canada or elsewhere;

Giving full effect to these commitments is of the utmost importance to the French language minorities outside Quebec as well as to the English-speaking minority of Quebec.

Since the enactment of Bill 101 in 1976 Canadians have been deprived of their fundamental rights as they relate to language of use. Indeed, the Official Languages Act of 1969 was even compromised at its outset by Bill C-22. You will recall the outrage of our former Prime Minister, the Right Honourable Pierre Elliott Trudeau, with these attemps by Quebec to thwart the spirit and concept of the official languages in Canada.

It seems incredible that the recent bulwarks for the defence of the English language in Canada have surfaced in Parliament as they now sense the jeopardy in areas outside Quebec. These so-called "dinosaurs" are virtually unknown to us in the Joint Committee on Official Languages. Certainly, in my eight years on this project, their presence and participation would have served to avert many of the ill feelings now emerging from across the country.

Honourable senators, as an English-speaking senator from Quebec, I resent that, after all these years of combatting Bill 101 by myself, these "dinosaurs" now refer to it because it affects them in some way or another. I now ask: "Where have they been?"

In the meantime, honourable senators, this group from within the Tory caucus has attempted to use the Senate of Canada for the purposes of thwarting due legislative process by circulating a letter, dated July 19, in which we received suggested amendments that would serve to stall passage of this bill.

I am sure I have the agreement of all sides of this Senate to ignore the source and the substance of that request.

● (1510)

Much has been said by Senator Murray—and I wish he were here today—about the three institutions of higher learning with university status which were originally privately-founded and funded under a system alien to the education framework of Quebec. The Royal Society for the Advancement of Learning was conceived by James McGill in 1811, and it has served Quebec and the nation extremely well since then. Statesmen of both language groups have cherished its inheritance. Sir Wilfrid Laurier was one of its law graduates, named class valedictorian, and he freely delivered his speech in French. Currently the student body is 50.1 per cent English. It must be noted that the Chancellor is now Mr. Jean de Grandpré. McGill is but one example of the anglophone contribution to the life of all Canadians in Quebec.

Quebec was indeed well-served by these institutions. Large-scale subsidization began only in 1960 when Quebec created a Ministry of Education instead of the Council of 21 Bishops. The 800,000 or so non-francophones, thanks to their own initiatives and resources, have also been served very well. Why has this heritage created such a grudge when it was there for all to enjoy, including the world standard teaching hospitals which were sponsored by these universities and which served the entire community?

Fellow senators, was Senator Murray in his speech of April 21 suggesting that these universities and institutions be cut off from statutory grants, which, incidentally, are being constantly diminished? Perhaps the answer to that will come with his definition of who is included, or otherwise, in the "distinct society".

With the consistent support of all three political parties, the federal government has significantly improved the participation of francophones at all levels of the federal public service over the past 20 years. However, anglophone participation in the federal public service in Quebec has gone into a steep decline. In his most recent annual report, the Commissioner of Official Languages characterized the level of anglophone participation as "intolerable" and potentially "irreversible" unless energetic action is taken. Even though more than 10 per cent of the Quebec population had English as their mother tongue, anglophone participation had fallen from 12.6 per cent in 1976 to 5.5 per cent by mid-1987. In the administrative support and operational categories, representing more than half of the 31,000 federal public servants in Quebec, anglophones constitute only 3.2 per cent of staff. Anglophone participation rates in the provincial public service are even lower. They are less than 1 per cent.

Despite this, Mr. Gil Rémillard, Quebec's Minister of International Relations and minister responsible for Canadian Intergovernmental Affairs, seems to reject the federal commitment outlined above. Speaking in the Quebec National Assembly, he referred to a meeting he had recently with Mr. Bouchard, the Secretary of State. I quote:

> I met yesterday with the Secretary of State, Mr. Bouchard. I gave him a letter making two points. The first was that jurisdiction over language matters is in our hands and there is no question of our ceding that principle: if you, the federal government, use C-72 to meddle with provincial jurisdiction over language, we will quite

simply take the issue to the courts. There is no sign that the federal government intends to use the bill for this purpose.

In his appearance before the special committee, Mr. Bouchard assured us that the legislation would apply as much to Quebec as it would across the country. He disagreed with Minister Rémillard on the subject of exclusive jurisdiction and agreed that the federal government is invested with national and general responsibility for protecting and promoting minorities in the two official languages.

Under subparagraphs (f) and (g), Mr. Bouchard would try to negotiate a framework agreement to put into perspective the kind of intervention the federal government will make. I quote Mr. Bouchard:

> Yes, it will be a general policy of my department to try to negotiate with all provinces something that would be more specific to their needs before going blindly all over Canada. I said, "We have to faire preuve de discernement." I said yes, but if a provincial government proved to be unreasonable and intolerant in those discussions, then we would act alone.

At the same time there was no intention to modify radically what the federal government was already doing in these areas.

Mr. Bouchard told the committee that he had not yet answered the letter sent him by Gil Rémillard, which stated that Quebec had primacy over language matters. He agreed that when a reply is drafted copies of it will be available to the Joint Committee on Official Languages, which I am sure will do its best to hold him to his commitments.

While Mr. Bouchard's appearance before the special committee did not fully allay my fears about his willingness to stand up to Mr. Rémillard, those doubts deal more with the implementation of the legislation than with the legislation itself.

I should like to read clause 87(2) of Bill C-72, which states:

> Where, within twenty-five sitting days after a proposed regulation is laid before either House of Parliament under subsection (1), a motion for the consideration of that House to the effect that the proposed regulation not be approved, signed by no fewer than fifteen Senators or thirty Members of the House of Commons, as the case may be, is filed with the Speaker of that House, the Speaker shall, within five sitting days after the filing of the motion, without debate or amendment, put every question necessary for the disposition of the motion.

The proposed regulation may not be made.

With that, we have some protection in Bill C-72, and we have the ongoing work of the Joint Committee on Official Languages, and we will be able to keep a close watch on the Secretary of State, Mr. Bouchard, and how he will implement Bill C-72 across the whole of Canada.

For that reason I can recommend that Bill C-72 be adopted.

On motion of Senator Frith, debate adjourned.

[Senator Wood.]

CANADIAN INTERNATIONAL TRADE TRIBUNAL BILL

SECOND READING—DEBATE ADJOURNED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Ottenheimer, seconded by the Honourable Senator Cochrane, for the second reading of the Bill C-110, An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, Bill C-110 gives effect to the decision in principle, announced in the budget of May 1985, to amalgamate the Canadian Import Tribunal, the Tariff Board and the Textile and Clothing Board. It is said to be part of an effort to rationalize and streamline federal institutions and practices. That sounds familiar.

Senator Flynn: You have heard that before!

Senator MacEachen: That objective is commendable. The time that has elapsed since the date of the announcement is not encouraging evidence of the government's streamlining efficiency, and we must therefore examine the result of the decision very carefully. That may be helped by comparing the structure and jurisdiction of the proposed tribunal with that of the existing agencies, which, for the many years of their existence, have served the trade needs of the country very well.

It has not been suggested by anyone that the total complement of 15 members of the present boards are underemployed or that the numbers of their staffs are surplus to their needs. Under this proposed legislation, the total number of members is reduced to nine, in spite of a projected increase in workload as a result of the new provision for direct access to the tribunal by domestic producers with complaints of injury from imported goods.

This reduction in manpower also overlooks the constant increase in the number of appeals from Revenue Canada decisions and the expected further increase resulting from the recent adoption of the harmonized system of Customs classification. It is my understanding that there is now a significant backlog of cases before the Tariff Board.

• (1520)

It may be argued that the proposed transfer of many of the functions of the Textile and Clothing Board to government departments will result in a decrease in the total workload. But is that either desirable or in the interest of the textile and apparel industries, which are such important components of the industrial base of several provinces, including my own? The apparel industry employs some 120,000 Canadians. It had shipments in 1986 amounting to about $6.2 billion.

The Textile and Clothing Board was established in 1971 to implement the textile policy announced in the previous year, which proposed the establishment of a board that, among other things, would

make non-appealable injury determination through non-adversarial proceedings

and

recommend to the government, in the light of all circumstances, including manpower and regional factors, appropriate measures of special protection and their duration

The Canadian Apparel Manufacturers, when they appeared before the House of Commons legislative committee, stated that the Textile and Clothing Board works well, "... provides excellent and essential data, impartial and creative recommendations, and a significant knowledge of the industry and its concerns." The manufacturers went on to observe that, notwithstanding the excellent work of the board:

In recent years, our industry has noticed that the government has not been listening to the Board and has not heeded its advice on many occasions.

I suppose that was a prelude to what is now to be the board's fate under Bill C-110.

The General Agreement on Tariffs and Trade establishes rules for the conduct of international trade in manufactured goods. Since 1961 there has been a special set of GATT rules governing trade in textiles and clothing, known as the Multifibre Arrangement, or MFA. It is under that special set of GATT rules that the Textile and Clothing Board makes its inquiries and recommendations. In Bill C-110, the government, under the pretext of extending to all industries the advantage of direct access to a tribunal of a kind that the textile and clothing industries have enjoyed for 17 years, is imposing on all industries the more stringent test of injury required by Article XIX of the GATT, but from which those industries are exempted by the Multifibre Arrangement.

Another serious omission from Bill C-110 is the failure to provide safeguard procedures to protect Canadian producers from injury resulting from the free entry of goods under the General Preferential Tariff.

When I had responsibilities as Minister of Finance in a previous government, I provided for the establishment of a standing reference in the Tariff Board whereby it receives petitions from Canadian producers who sustain that type of injury. The Tariff Board may recommend GPT withdrawal and the imposition of normal rates or an import quota if it is satisfied that the imports are causing injury and that the withdrawal of the GPT would confer significant benefit on the affected producers. The test is a less rigorous standard than the "serious injury" that must be shown under Bill C-110. The government may argue that a new and similar standing reference will be directed to the proposed tribunal, but it would be of doubtful validity where, as in C-110, a different standard for complaints is imposed by statute.

Honourable senators will recall that the Canadian Bar Association has protested against the dismissal of board members without adequate compensation, as provided for in this bill and in Bill C-55. Although the most offensive clauses have been withdrawn from both bills, the authorities suggest that they must be replaced by a positive requirement for the payment of compensation in order to avoid injustice.

Another feature of this bill that warrants attention is the absence of any capacity by the new board to initiate inquiries and any duty to make recommendations. The Textile and Clothing Board has this power and responsibility, but now the government proposes that any inquiries by the new Canadian International Trade Tribunal be undertaken only upon the recommendation of the Governor in Council. Surely this is not progress.

The government majority of members of the legislative committee of the other place attempted to report this bill without providing an opportunity for witnesses to be heard. Those efforts were thwarted by the demands of industry representatives to be heard and the protest of the opposition. I expect that honourable senators will wish to provide a full hearing in committee to those interested in appearing. In view of the long, drawn-out history of this legislation in the House of Commons, I trust I will hear no calls for the urgent and priority passage of this bill.

Another important characteristic of this bill is its relationship to the Canadian free trade bill. Even though Bill C-110 has passed the House of Commons and Bill C-130, the trade bill, has not yet received its study in committee, the trade bill amends, on at least ten occasions, Bill C-110. I think it is at least an oddity that both chambers are being asked to approve Bill C-110 even though the government, by introducing amendments to it in a bill yet to be passed by Parliament, has declared that there are defects in Bill C-110. Without prejudging the case, I should expect that the committee would want to consider the relationship of these two bills and the amendments that are being made via the trade bill to the bill that is now about to be given second reading in the Senate. This, then, is a matter that has undoubtedly been noted by members of the Banking, Trade and Commerce Committee and is one that will probably engage their attention.

Hon. William J. Petten: Honourable senators, I wish to move the adjournment of this debate, but before doing so I want to explain why. One of our colleagues, who cannot be with us this afternoon, wishes to speak on this bill tomorrow.

On motion of Senator Petten, debate adjourned.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Marshall, seconded by the Honourable Senator Macdonald (*Cape Breton*), for the second reading of the Bill C-92, An Act to amend the Canadian Wheat Board Act.—(*Honourable Senator Frith*).

Hon. William J. Petten: Honourable senators, I ask that this order stand in the name of Senator Argue.

Order stands in name of Senator Argue.

ROYAL ASSENT BILL

SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill S-19, respecting the declaration of Royal Assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.

He said: Honourable senators, Bill S-19 is an attempt to deal with a problem we have had in this place for some time—presumably, before I came here, but certainly since that time—and that is the Royal Assent process that we go through in the Senate chamber in cooperation with our colleagues from the other place and with the Deputy of the Governor General.

• (1530)

The problem has been that it is difficult—indeed, sometimes impossible—to get all of the pieces to fit together to the convenience of all parties involved. We have to find a time that is convenient for the Deputy of the Governor General, even though the court may then be sitting. At times it is impossible to get someone at short notice and, consequently, we have to wait in the Senate for a deputy. More often, the Deputy of the Governor General has to wait in the Speaker's chambers while the business of the Senate or the business of the House of Commons arrives at a point where it can be broken off for the Royal Assent process.

Obviously there is a great deal of reluctance to abolish the traditional Royal Assent. It has been very much a part of the history of the Parliament of Canada. I for one—and I think most senators agree—believe that it would be improper, indeed wrong, to abolish the system.

This rather short bill is an attempt to present an alternative to the formal Royal Assent process. It offers the legislative process an opportunity to have Royal Assent without the formal process we have at present, but at the same time it retains the formal Royal Assent process for use when it is deemed necessary.

This bill offers a process by which a declaration of Royal Assent would be read in each of the two houses by the Speaker of that house, after it had been signed by the Governor General. The bill provides that this shall be done within 15 days of the declaration having been made. I should point out to honourable senators that there is nothing magic about 15 days. If it is felt that an alternative time should be used or that it should be done at the earliest convenient moment, certainly something to that effect could be substituted.

There is nothing complicated about this bill; it was kept simple deliberately in order to seek the concurrence of honourable senators and, assuming that it passes here, of our colleagues in the other place.

As a point of interest, I am told that the system suggested in this bill is currently in use in Australia and has been used in that country for some time. The Governor General's assent to bills there is usually made known by messages to the President of the House of Representatives and to the Speaker of the Senate, both of whom report the receipt of such messages to their respective houses. And that is precisely what we are suggesting here. In the United Kingdom, under the Royal Assent Act of 1967, an act of Parliament is duly enacted if Royal Assent is notified to each house of Parliament sitting separately by the Speakers of both houses. I am told that the Canadian Parliament is the only one that still uses the formal Royal Assent process on an ongoing basis.

Our Standing Committee on Standing Rules and Orders applied itself to this problem some time ago and came up with a series of suggestions, some of which are incorporated in this bill. Assuming this bill receives second reading, I will ask that it be referred to our Standing Rules and Orders Committee for study. Perhaps the results of the work done previously can be brought to bear on Bill S-19. For example, there was some discussion that Royal Assent could take effect after a bill had been gazetted. The consensus was that that would be an unnecessary complication; so that was not included in the bill. However, once again that is something that could be looked at.

The Rules Committee suggested that the present Royal Assent procedure in the Senate chamber be used for at least the first ordinary bill and the first supply bill. That is provided for in this bill. Our Rules Committee also suggested that the notification of Royal Assent by written message be made publicly by the Speaker in each house of Parliament. That is also provided for in the bill.

A number of suggestions made by the Rules Committee were not included in the bill. For instance, the committee recommended that the Royal Assent procedure should involve representation from both houses and be a public event. That was considered cumbersome and perhaps not the best way to proceed, so it is not in the bill.

With reference to delegation, some senators suggested that the bill should state explicitly that the Governor General may delegate to a deputy the function of giving Royal Assent. In the view of many experts, that is not necessary, because the Governor General already has that authority under section 14 of the Constitution Act and because paragraph 7 of the Letters Patent specifically gives that authority to the Governor General. Therefore, it is not necessary that it be included in the bill.

There was some thought that the procedures for a written declaration of Royal Assent should be outlined in the bill. However, rather than tying down at this point what the procedures should be, it has been suggested that a committee be set up, and the Clerk Assistant of Senate has been asked to head up a committee to draw up a series of recommendations for determining a process. If necessary at a later time, these could be brought into force of law by, for instance, a joint resolution of both houses. In other words, it might be found that they could be improved on after a few months' trial and at that time they could be brought into law.

Honourable senators, this is an attempt to make the process more convenient and practical. It is not an attempt to deprive us of the historical Royal Assent process that we have enjoyed for so many years in this country. It will still be there and available when necessary. But, in the ordinary course of

events, it is felt that this declaration would be a simpler way to proceed.

I ask honourable senators to give this bill second reading and refer it to the Standing Committee on Standing Rules and Orders.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I must say that—

Hon. Gildas L. Molgat: Honourable senators, is Senator MacEachen going to speak on the matter?

Senator MacEachen: Yes.

Senator Molgat: I should like to ask a question, which is one of translation. I should like to refer to clause 2. In the English text the terminology indicates that the normal procedure will be used at least for the first appropriation bill or the first bill, if it is not an appropriation bill. In the French text it says "and". In the French text there would, by this law, be formal Royal Assent for the first appropriation bill and the first bill of another nature. The English text uses the word "or".

Senator Doody: I thank Senator Molgat for pointing that out. My own preference is for the French version. Both an ordinary bill and an appropriation bill should be given Royal Assent through a formal process. Once again, this is a matter that the committee can look at in greater depth and perhaps it will come up with a recommendation.

Senator MacEachen: Honourable senators, the notion of transforming the mode of the Royal Assent has been under discussion for some time. I must say I am decidedly negative on the proposal.

The matter was raised some months ago through the House of Commons, where it was proposed to introduce a bill altering the historic Royal Assent. I was consulted by my counterpart in the House of Commons on what I would recommend if such a bill came to the Senate. I replied by letter, indicating that I saw no merit in changing the present system of Royal Assent.

• (1540)

I take that view for a number of reasons, including the historical importance of continuing to emphasize the role of the Sovereign in our system of government. That procedure will disappear if we are to have a written declaration read by a Speaker. Except on two or three occasions in the course of a long session, at no time will the House of Commons, the Senate and the representative of Her Majesty come together to confirm in a public spectacle the three elements of the Parliament of Canada.

Why is it necessary, at this stage in our history, to adopt a bureaucratic method to confirm the passage into law of bills? I do not know.

I did not take any unilateral action on this matter. I consulted my colleagues on this side of the house, and the general view was that we did not want to alter the present Royal Assent unless—and I would add one qualification—it could be provided that, if one house of Parliament were not in Ottawa when Royal Assent was necessary, the written declaration could be utilized in such a case.

We have had circumstances in which the House of Commons adjourned and the Senate was required to continue with a bill. We would pass the bill and the Commons would have to be recalled for Royal Assent to take place. I can see, therefore, that considerable convenience would be had by permitting a written declaration in circumstances where both houses were not in session to conduct the Royal Assent ceremony; nevertheless, that ceremony is historic and has symbolic value, and I think that that is important.

The fact that the Royal Assent ceremony takes place in this chamber is also of some importance, because members of the House of Commons would never see the Senate if a written declaration were put forward.

I was not aware that this bill was to be proposed for second reading today—and I do not complain about that; but it probably would have been better if I had not been here, because then it might have been sent to committee. In the circumstances, I intend to adjourn the debate. I simply thought that I would signal how I feel and how I think my colleagues on this side of the house feel. I certainly do not like it, but, if there is a ground swell to alter the system, I certainly will not stand in the way. However, I have not perceived any ground swell. In my opinion, it is a bad move to wipe out this ceremony of such importance—

Senator Doody: It is not being wiped out.

Senator MacEachen: I thank Senator Doody for correcting me. It is not to be wiped out; it is to be reduced—

Senator Doody: That is right.

Senator MacEachen: —considerably—

Senator Doody: That is right.

Senator MacEachen: —to a number of occasions in the course of a year—maybe three—or of a long session.

We have been in session now for how long?

Senator Doody: Oh, 20 years! Or 30 years! At least it seems like that long!

Senator MacEachen: If this were put into effect, Royal Assent would occur very rarely.

Those are my views. I will talk further. I am glad that I have joined the monarchical side of the Conservative Party; it needs a voice in this chamber!

On motion of Senator MacEachen, debate adjourned.

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN)—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Macdonald (*Cape Breton*) for the second reading of the Bill S-16, An Act to amend the Criminal Code (protection of the unborn).—(*Honourable Senator Kelly*).

Hon. William M. Kelly: Honourable senators, I rise today to speak to Bill S-16, a bill, moved by Senator Haidasz, having to do with the protection of the unborn.

I know that I must tread carefully into this discussion, as I have been cautioned by my daughters, my female colleagues, associates and friends that my views are not expert. They point out that I have not experienced a pregnancy, a birth, single parenthood or poverty.

Honourable senators, all that is true. But, although I have not experienced motherhood, I have experience as a father, brother and grandfather. I am also experiencing a full life. As a consequence, I have many observations, thoughts and comments that may not be expert but are based on experience and personal conviction nonetheless.

I do not know any experts on living. I am told that abortion is an issue of choice, that abortion constitutes a collision of rights: the rights of the fetus and the rights of the mother. I am told that to deny the right of access to abortion is to deny the freedom of individual choice.

Honourable senators, I am fascinated and a bit curious about this issue of freedom of choice. It was George Bernard Shaw who said, "liberty means responsibility". Edmund Burke is quoted as saying that "true danger is when liberty is nibbled away for expediency and by parts". Both Shaw and Burke are relevant to this debate. I would add a modest observation that the law of liberty is anchored on the discharge of moral obligations.

I contend that the mother and society have a moral obligation, a responsibility, to safeguard the rights of the innocent, unborn child, and that to subordinate the rights of the infant to those of the mother establishes a dangerous precedent for the sanctity of individual human rights.

Honourable senators, the social contract between government and the governed requires the government to protect the weak from the strong, the minority from the majority, and so on. From that perspective, perhaps the government should wade into this emotionally charged and highly contentious matter, for nothing can be weaker or more fragile than the unborn fetus—especially in the face of an often disinterested society, armed with its vast array of intrusive medical technology.

Having said that, I sincerely regret that this issue has come to Parliament. Not because the issue is so difficult and divisive but because, to me, it demonstrates a breakdown in the moral fabric of our society; a failure by our schools, churches, families and ourselves; and a failure to instil an overarching commitment to, and respect for, the value of human life.

I also know that, if this Parliament does pass legislation along the lines of Bill S-16, abortions will continue in back alleys by unqualified quacks, sympathetic family practitioners and in abortion clinics across the border. But no Parliament can legislate morality, and abortion is essentially a moral issue.

Some say, therefore, that we, as parliamentarians, should resist the temptation to legislate. I say reluctantly that the state must take a position; that the state cannot, implicitly or explicitly, be a part of something that violates the rights of the innocent, defenceless and silent fetus. Some people point to the dangers of back-alley abortions, saying that the state should legalize and regulate abortion clinics for the safety and protection of mothers.

Honourable senators, that is a troubling proposition. If we take it to its logical conclusion, should prostitution be legalized and regulated by the government in order to keep out criminal elements and to ensure the health and safety of prostitutes and members of the public? Should the state legalize and regulate the sale of the drug "crack" on the streets of our cities to ensure that buyers get unadulterated doses and use properly sanitized equipment?

● (1550)

Some say that a Parliament composed largely of men has no right to legislate a woman's issue. This proposition strikes at the heart of our system of government. First, this is not a woman's issue but an issue that has broad implications for society at large. Second, this proposition, were the basic assumption correct, is akin to saying that only a Parliament of broadcasters would be in a position to review and approve a new broadcasting policy; only a Parliament consisting of experts in air transportation and privatization should decide how and when Air Canada is to be sold; that only criminals are in a position to judge our penal system, our parole system or our Criminal Code.

Fortunately, that is not the way our system works, and such propositions add nothing to the debate. I do not believe that abortion is an issue of choice, but, rather, is an issue of responsibility. Children, childhood and conception are shared responsibilities. Collectively, society has a responsibility to the living, whether they are inside or outside the womb. I believe churches, family and social institutions have more of a role to play and I believe that individuals have to accept more of the responsibility.

Honourable senators, some of my friends and associates counselled me not to speak in this debate. My conscience and my sense of what is right compelled me to state my views anyway. If you believe, as I do, that life begins at conception, then the solution is clear, straightforward and unambiguous. I am shocked at the statistics coming out of the United States showing that there are 1.5 million abortions in that country every year. I am particularly shocked to hear that a significant portion of these abortions are for the purpose of gender selection and birth control.

In this context, abortion is murder, purely and simply, and, even worse, murder for convenience sake. Medical evidence is inconclusive at best, so far as I know, as to when life begins. To terminate the existence of a fetus at any stage after conception, when it is possible or likely that it represents life, is an abhorrent act for an individual to perpetrate and for a society to condone. I point out that medical technology now allows babies born at three months to survive. In the absence of conclusive medical evidence as to when life begins, if such evidence is ever possible, surely the only possible ethical and reasonable solution is to ban abortion, except perhaps in those

tragic conflicts of life with life that may justify an abortion in a very exceptional circumstance.

Honourable senators, I urge support of Bill C-16.

On motion of Senator Haidasz, for Senator Anderson, debate adjourned.

[*Translation*]

ELECTORAL BOUNDARIES READJUSTMENT ACT

BILL TO CHANGE NAME OF ELECTORAL DISTRICT OF CHAPLEAU—SECOND READING—DEBATE ADJOURNED

Hon. Jacques Flynn moved the second reading of Bill C-308, to change the name of the electoral district of Chapleau.

He said: Honourable senators, this is the kind of bill we used to receive quite regularly. The purpose of the bill is to change the name of an electoral district. The situation is somewhat different in this case because of the new electoral map which just became effective, I believe, on July 13.

The member for the present riding of Gatineau now has a new riding called Chapleau, which covers more or less the same territory.

Chapleau is a very attractive name, designating a former premier, ex-lieutenant-governor and former federal minister from Quebec, but this eminent figure has no direct connection with the riding of Gatineau. According to the present member, her constituents are very unhappy about the change.

The name Gatineau is also connected with an historic figure—I think his name was Nicolas Gatineau or something like that. In any case, he is identified with the area, since the city of Gatineau is in the riding. In fact, it is the biggest city in the riding.

In the circumstances, the member obtained the unanimous consent of her colleagues in the House of Commons to have all three stages of Bill C-308 adopted.

I remember that in the past, when we received bills of this nature, I always objected as a matter of principle to double names. In this case, the bill does not substitute the name Gatineau for Chapleau but Gatineau-La-Lièvre. I used to object to the use of more than one name. I felt that a riding should have a name that was short and sweet. In any case, the decision was made by the present member and by the House of Commons, and I think that, in the circumstances, we should abide by that decision.

Normally, such bills would not meet with any opposition in this Chamber and no one asks for referral to committee. However, if any honourable senators would prefer to see the bill considered in Committee of the Whole or in a Committee of this Chamber, I will move the requisite motion. Thank you, honourable senators.

Hon. Gildas L. Molgat: I would like to ask the senator a question. I believe that according to law, after the Electoral Boundaries Commission has published its proposals for new electoral districts and new names, the Commission is supposed to hold hearings and invite anyone who has any objections or changes to suggest to express his views. Were there any objections at the time from constituents or other individuals? Did they appear before the Electoral Boundaries Commission to demand this change? And if so, what was the response of the Commission?

Senator Flynn: I must admit I am totally ignorant of the situation. If the senator prefers, I will ask Mrs. Mailly to give me a reply which I will transmit to the senator before the final stage of the bill is passed.

On motion of Senator Petten, for Senator Frith, debate adjourned.

[*English*]

LOBBYISTS REGISTRATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Richard J. Doyle moved the second reading of Bill C-82, respecting the registration of lobbyists.

He said: Honourable senators, the need for legislation is often obvious long before an act is consummated. I speak today to support the passage of Bill C-82, an act respecting the registration of lobbyists, which, in all probability, would have well-served Sir John A. Macdonald in his dealings with the buggy-whip interests who looked upon Ottawa and knew a good thing when they saw it.

• (1600)

I do not come to you today without experience in the territory. For a 12-month time, beginning in the spring of 1947, I hired myself out as a public relations manager to the Canada and Dominion Sugar Company, and when I was not engaged in the business of establishing that our product was 99.9 per cent pure I was kept busy proving to the government of the day that our corporation was as wholesome as our lumps and deserving of help. I was, honourable senators, a lobbyist.

The target of the day was a powerful bureaucrat whom some of you may remember. His name was S.R. Noble and he was this country's sugar controller. Armed with regulations left over from the war years, he had jurisdiction over supply and prices in our industry and absolute power to determine the future of the Ontario beet-sugar industry, then centred in Wallaceburg and Chatham.

Our company visits to Ottawa were set up so that we might prostrate ourselves at Mr. Noble's feet and plead for his mercies. In truth, we were in town to impress a number of members of the Senate and the Commons—particularly one John Diefenbaker, friend of the western beet growers—with the wisdom of our case for higher prices and subsidies.

I dare say that what we were doing—we offered briefs, issued press releases, bought a few dinners and poured a few drinks—was not much different from what the buggy-whip people had done before us. Perhaps what we did was not as sophisticated, or for that matter as useful, as what is done today by the people who build pipelines, sell submarines or protest against the hanging of tobacco merchants.

The bill before us is offered on the assumption that the men and women who function in the business of making representations to government, or providing connections with govern-

ment, perform necessary and useful services in the democratic process and, with rare exceptions, go about their work ethically.

For this reason Bill C-82 makes no attempt to regulate them. There are laws enough to deal with unacceptable approaches, or for that matter with unacceptable reception of society's persuaders. What this bill undertakes is the registration of paid lobbyists so that public office holders will have full knowledge of those with whom they are dealing on the public's behalf. Hidden persuaders, those who do not register their connections, will be subject to fines not exceeding $25,000 or to prison terms not exceeding six months—or both—on summary conviction. On proceedings by way of indictment, the fines can go to $100,000 and the jail terms to two years. Serious stuff!

Honourable senators, this legislation comes as no surprise. It was promised by Prime Minister Brian Mulroney in September 1985 and was based on a unanimous report from an all-party committee tabled in the House of Commons last January. It is conceived to incorporate four guiding principles: One, openness: The registry will tell us who is dealing with government. Two, clarity: There will be no doubt of who must register and who need not. Three, access: The road to government will not be obstructed. Four, simplicity: An administrative burden will not be imposed upon those affected.

Those individuals who wish to reach the government on their own behalf or those who work as volunteers within organizations will not be covered by this legislation. The citizen, in short, will retain his unencumbered access to public office holders.

Those who must register are divided into two tiers. A tier-one lobbyist is anyone who, under contract to third parties, approaches public office holders, even for the purpose of arranging meetings for clients. What will be required of them beyond their name, their firm's name and address and names and addresses of clients—including information on parent and subsidiary companies where applicable—will be details of the particular issues to which their lobbying efforts relate.

The Assistant Deputy Registrar General of Canada will be the keeper of the registry and will require notice within ten days of the commencement of any lobbying activity. When clients change or issues change, updated information will be necessary. It is difficult to understand why any ethical communicator would hesitate to provide such particulars.

The second-tier lobbyists, as the minister likes to boast, will have to disclose no more information than they now provide on their calling cards. They are likely to be the employees or officers of trade organizations, labour federations, professional associations, boards of trade or private businesses who, to a significant degree, lobby for their employers. They need only register their names and the names of the people they work for. This information must be updated and certified annually. All information contained in the registry will be public. There will be no charge for registration and only a nominal fee to cover photocopying and such for those seeking access to the register.

Alas, there will be nothing retroactive about this reasonable process of determining who is intervening in public business and why. We second-tier wonders of 41 years ago will have no way of acquiring paper proof of our having had what the minister calls "a role in keeping government informed". In the bad old days recognition was hard to come by. Those who are about to receive it should rejoice.

Honourable senators, I commend Bill C-82 to you as a valuable step forward in public sector ethics.

On motion of Senator Petten, for Senator Olson, debate adjourned.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I believe that there is general agreement that all remaining orders stand, but I am subject to correction by any other honourable senator who wishes to speak to any item on the order paper.

Hon. William J. Petten: Agreed.

• (1610)

CANADIAN INTERNATIONAL TRADE TRIBUNAL BILL

SECOND READING

Leave having been given to revert to Order No. 4:

Resuming the debate on the motion of the Honourable Senator Ottenheimer, seconded by the Honourable Senator Cochrane, for the second reading of the Bill C-110, An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof.—(*Honourable Senator MacEachen, P.C.*).

Hon. William J. Petten: Honourable senators, when I stood this order this afternoon it was my understanding that one of our colleagues wished to speak to it. He has now informed me that he is quite content to speak when the matter is referred to committee. If it is the wish of the Senate that the bill be referred to committee, we have no objection.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Doody, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, July 27, 1988

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

Prayers.

[*Translation*]

THE ESTIMATES, 1988-89

REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Fernand-E. Leblanc: Honourable senators, the Standing Senate Committee on National Finance has the honour to present its twenty-sixth report on the Estimates for the fiscal year ending March 31, 1989. I ask that the report be printed as an appendix to the *Debates of the Senate* and the *Minutes of Proceedings* of this day and that it form part of the permanent records of this house.

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

Hon. Senators: Agreed.

(*For text of report, see appendix, p. 4156.*)

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

On motion of Senator Leblanc (Saurel), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to deal with the business of the Senate, particularly as it applies to tomorrow. I also want to put a motion asking for leave to sit tomorrow morning at ten o'clock.

The reasoning behind that is that the House of Commons, I am told, will get a Speaker's ruling on the grouping of the various amendments on the abortion resolution and they are expected to vote at around noon. They will then adjourn for a period of time. I believe their adjournment motion will be for August 10. In any event, between eleven and twelve o'clock it might be appropriate for us to have Royal Assent for those bills that will have received third reading. That will not put us in conflict with the activities of the other place after noon, because no one at this time knows how many votes there will be or how long they will take. It will probably be more convenient for all of us if we have Royal Assent before the House starts its voting process on the abortion resolution.

At approximately ten o'clock, before Royal Assent, we will be able to deal with any matters left over from today or any third readings that might be ready for tomorrow. If that is satisfactory to honourable senators, I will put the motion.

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, Thursday, 28th July, 1988, at ten o'clock in the forenoon.

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

Hon. Senators: Agreed.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, earlier today Senator Doody and I discussed this adjournment until tomorrow morning and we worked out a program that would make it possible for us to have some legislation ready for Royal Assent tomorrow and some other legislation ready to go to committee. Of course, it will be up to honourable senators to decide what they wish to do, but we will be able to offer a program that will make this adjournment possible. Therefore, I believe we should support this motion.

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

Hon. Jacques Flynn: Which adjournment?

Senator Frith: The adjournment until ten o'clock tomorrow morning.

Senator Flynn: What will happen when we are through tomorrow?

Senator Frith: Honourable senators, as Senator Doody has pointed out, the House of Commons plans to adjourn tomorrow at about one o'clock, or whenever they finish their votes on the abortion issue. I am told they will then adjourn until August 10. On August 10 the committee of the other place on the Free Trade Agreement will report. However, as I understand it, the House will not be able to debate that report until the following week, and the government proposes to deal with child care for the balance of that week, a matter that will be of great interest to the Senate at some time. However, we will perhaps be able to hold our breaths, at least for the balance of that week. Senator Doody and I discussed that also and it seems the appropriate adjournment after that for the Senate would be to August 16.

Senator Doody: Perhaps I could add a couple of thoughts on the timing of our recess, if we manage to get one—and I suspect we will. The return date would be predicated, to a

large degree, on the amount of work that the committees will dedicate themselves to during the time that the Senate is recessed. At that time we will have approximately six bills in committee—probably more than that, because there are two agricultural bills that will have to be sent as well. So there will probably be eight bills that the committees should be able to study. We have agreed that it is not necessary for the entire Senate to come back simply because the committees have work to do. However, it is equally true that the committees should deal with that work while the Senate is adjourned.

Hon. Allan J. MacEachen (Leader of the Opposition): I wonder if you would give us a listing of the bills in committee?

Senator Doody: I may be a bit presumptuous on some of these. Bill C-82, which deals with lobbyists, was introduced at second reading yesterday. I hope it will be responded to today and referred to the Standing Senate Committee on Legal and Constitutional Affairs. Bill C-30, which we introduced for second reading a few days ago, is still awaiting a response. I hope it will be responded to by the spokesman on the other side and referred to the Standing Senate Committee on Energy and Natural Resources. Bill C-110 has been referred to the Standing Senate Committee on Banking, Trade and Commerce.

I am sorry, Senator Sinclair, did you wish to comment?

Hon. Ian Sinclair: I would just like to say a word on Bill C-110. As I look at it and at some other legislation in the other place, namely, Bill C-130, I see a conflict between them. Bill C-130 will have some effect on Bill C-110, but it is not even before this chamber yet. I would suggest, therefore, that we are in the position of having to defer consideration of Bill C-110 until we see what happens to Bill C-130, particularly in view of the Danforth amendment and, to use Mr. Crosbie's phrase, "the defanging of that amendment". We have not been able to get our hands on the defanged amendment. I have asked the American Consul to give us something on that, and I understand that it will be some time before we get it. While we will deal with the bill when we can, it will not likely be very quickly.

Senator Doody: With reference to the defanging part of the operation, I can think of nobody more suitable or better equipped to defang any piece of legislation than the honourable gentleman. So we are obviously referring it to the right committee at the right time.

Regarding the relationship to Bill C-130, we are walking on some tricky ground. I hope that we will not have to wait for an election to get the tribunal bill under way. In any event, we will discuss that at another time.

Bill C-103, the ACOA Bill, is in committee. I understand that that committee will be meeting this evening. What that committee's plans are beyond this evening I am not in a position to say, but I do hope that that committee will find time to meet and discuss that bill while the Senate is adjourned.

Bill C-92 relates to the Canadian Wheat Board. I think the Agriculture Committee is concerned with that. That committee has a meeting planned for next week, I believe. In any event, we would like to have that bill referred to committee as quickly as possible. Indeed, we would have preferred to have it referred to committee this week because there are financial implications involved in it. There are changes in the borrowing authority in the bill which will allow greater flexibility and the saving of considerable moneys. The faster this bill is approved, the faster the financial savings involved will commence.

Bill C-129 deals with the privatization of Air Canada. That is before the Senate Committee on Banking, Trade and Commerce. I understand that a schedule of meetings for that committee has been prepared to deal with that bill. I understand there are three or four meetings of that committee planned for next week.

Bill C-126, which relates to the Bretton Woods Agreement, is to be dealt with today. I understand there will be a response from the other side on second reading of that bill. The Honourable Thomas Hockin is prepared to come here at three o'clock this afternoon to deal with the bill in Committee of the Whole, if that is agreeable to honourable senators.

We have two other agricultural bills before us, Bills C-132 and C-112. We had hoped to deal with these in Committee of the Whole this afternoon as well. The parliamentary secretary is prepared to come here and answer questions honourable senators may have. The minister is out of town, but the parliamentary secretary has handled these bills and is prepared to come here and explain them to honourable senators. However, I have been informed that it is the wish of the Agriculture Committee to deal with these bills next week. I do not pretend that they have the urgency that Bill C-92 has.

In any event, those are the bills that will be dealt with in committee, if we are fortunate enough to give them second reading and have them referred to the appropriate committees. Once again, I can only hope that the committees will deal with them during the coming week.

Senator Frith: Honourable senators, I have just one comment in addition to what Senator Doody has said. He and I realize that we are in no position to give any undertakings on behalf of committees. The committees decide when they will meet and what they will deal with, but I am sure they will take into account what Senator Doody has said in making those decisions.

Motion agreed to.

• (1410)

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is absent today,

but I would be pleased to take as notice any questions honourable senators might wish to give me.

EXTERNAL AFFAIRS

APPLICATIONS FOR CANADIAN PASSPORTS—REVISION OF REGULATION RE GUARANTORS

Hon. Charles Turner: Honourable senators, I should like to ask the Deputy Leader of the Government in the Senate a question about applications for Canadian passports. I have had a few calls on this matter. The present regulations state that an applicant for a passport must have his application countersigned by a guarantor who has known the applicant personally for at least two years and well enough to be confident that the statements he has made are true. Guarantors must belong to certain occupational groups. These groups include ministers of religion, signing officers of banks, judges, police officers, postmasters, lawyers, mayors, doctors, dentists, university teachers and school principals.

Senator Marshall: And senators?

Senator Turner: Senators are not mentioned; they are the forgotten group. While there are a number of different occupational groups which qualify, many occupational groups do not. While a high school principal can sign for you, a high school teacher cannot. While a university administrator can sign, an administrator for the Government of Canada cannot. While a bank manager can sign, a trade union official cannot.

The present list of guarantors seems to reflect an older vision of Canadian society, where people lived in small towns and where there was a reasonable chance that the people on the list would know you. With the majority of Canadians now living in large urban centres, where relationships are more impersonal, this may no longer be the case.

Is the government giving any consideration to revising its regulation regarding who can act as guarantors in applications for Canadian passports? The reason for the question is that I have had calls from people who go down to see postmasters, lawyers, mayors, doctors, dentists, and they are all busy. It takes a while to get into their office to get the application signed.

Hon. C. William Doody (Deputy Leader of the Government): I will attempt to get the answer for Senator Turner.

Senator Turner: Thank you very much.

NATIONAL CAPITAL COMMISSION

DISAPPEARANCE OF COMMEMORATIVE ROCK FROM DOW'S LAKE, OTTAWA

Hon. Daniel A. Lang: I have a very weighty question for the Deputy Leader of the Government in the Senate. I am advised that on the driveway here in Ottawa by Dow's Lake there used to be a large rock, weighing one or two tonnes, in front of the tulip beds that are laid out in that area. On that rock was a plaque commemorating Queen Juliana of the Netherlands' gift of tulips to the City of Ottawa as an expression of her gratitude for having been here in Canada during World War II, and particularly here in Ottawa.

I am advised, honourable senators, that this large, weighty rock has disappeared, and it seems that its disappearance is not a removal of the plaque from the rock but the whole rock, which hardly could be considered an act of vandalism. It is peculiar that this large rock disappeared at approximately the same time as Queen Beatrix of the Netherlands was here in May or June of this year.

I should like to know if the honourable senator could tell me if my facts are correct, and, if so, who removed this weighty object and why.

Senator Argue: And where?

Hon. C. William Doody (Deputy Leader of the Government): This may come as quite a shock to the senator, but I really do not know. Had the honourable senator asked me about rocks in Newfoundland, I would have been in a much better position to answer him. In any event, if the rock is not returned, I will see to it that we get a replacement from my province. In the meantime, I will make inquiries as to the fate of this particular one.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have some delayed answers to questions and ask that they be printed as part of today's proceedings.

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

Hon. Senators: Agreed.

AGRICULTURE

PLIGHT OF TOBACCO FARMERS IN SOUTHWESTERN ONTARIO—GOVERNMENT ASSISTANCE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question raised in the Senate on July 5 last by the Honourable Colin Kenny, regarding Agriculture—Plight of Tobacco Farmers in Southwestern Ontario—Government Assistance.

(*The answer follows:*)

> The Government has made every reasonable effort to assist all tobacco producers in Canada. A budget of $33.5 million was made available to the Tobacco Diversification Plan (TDP) to compensate exiting producers and to encourage diversification.
>
> In Ontario, two major initiatives have been implemented. These are the Tobacco Transition Adjustment Initiative (TTAI) and the Alternate Enterprise Initiative (AEI).
>
> In Ontario, to date, the TTAI which can be further sub-divided into three programs (the Tobacco Assistance

Program, the Exit Compensation Program and the Ontario Burley Transition Adjustment Initiative) has provided some $12.2 million compensation to 796 exiting producers.

The AEI is supporting crop and market development projects as well as more basic research activities. The AEI is funding projects involving a variety of crops including peanuts, processing tomatoes, cash-crop hay, ginseng and garlic. The federal government has committed $9.0 million to this initiative in Ontario.

The search for alternatives is one of the keys to addressing the problems facing the tobacco industry. A great deal of time and effort must be diverted to this search but, even in the short time the AEI has been in place, substantial progress has been made. Caution, however, must be taken to ensure that our search for alternatives does not disrupt the established markets and livelihoods of other producers.

The tobacco industry, although still under pressure, has shown signs of some stability. For example, flue-cured tobacco production in Ontario in 1988 is estimated to increase to 141 million pounds, an increase of some 30 million pounds from 1987.

The Government continues to follow the situation closely and the Government's efforts to assist the industry in their efforts to rationalize production and develop alternatives will continue. The industry's and the provincial government's continued input and cooperation will be sought, so as to maximize the benefits derived from any and all federal initiatives undertaken.

AGRICULTURE

WESTERN CANADA—DROUGHT CONDITIONS—EFFECT ON PRICE OF BREAD

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question raised in the Senate on July 5 last by the Honourable H.A. Olson, regarding Agriculture—Western Canada—Drought Conditions—Effect on Price of Bread.

(*The answer follows:*)

The domestic price of wheat was raised to $7.00 per bushel on April 1, 1986 (the maximum at that time) for No. 1 Canada Western Red Spring (CWRS), 13.5 per cent protein, basis in store Thunder Bay and has maintained at that level.

The government has announced changes to the two-price wheat policy. After August 1, 1988, the domestic selling price of wheat for human consumption in Canada is to be at prices competitive with prices of wheat paid by U.S. millers.

On July 15, the Canadian Wheat Board established the new domestic price for August and September at $5.98 a bushel.

Thus, statements that Canadian domestic prices would increase based on currently prevailing prices in the North American market are unfounded.

The government will be monitoring prices very closely as the domestic price of wheat changes every two months. Each dollar per bushel change in the price of wheat is equivalent to a change in the value of wheat in a 24 ounce loaf of bread of only about 2 cents.

CANADA-UNITED STATES FREE TRADE AGREEMENT

AVAILABILITY AND COST OF TEXT TO PUBLIC

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question raised in the Senate on July 5 by the Honourable Joseph-Philippe Guay, regarding the Canada-United States Free Trade Agreement—Availability and Cost of Text to Public.

(*The answer follows:*)

Copies of the Canada-U.S. Free Trade Agreement and the accompanying tariff schedules are available free from regional offices of the Department of Regional Industrial Expansion across the country and from the International Trade Communications Group of the Department of External Affairs.

The implementing legislation must be obtained through the Department of Supply and Services or through Government bookstores across the country at cost, as is the case with every bill or statute of the Government of Canada.

For those Canadians interested in reading the Agreement itself, there is no charge whatsoever.

CANADA-UNITED STATES FREE TRADE AGREEMENT

JOB CREATION—BASIS OF PREDICTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question raised in the Senate on July 12 last by the Honourable Philippe Deane Gigantès, regarding the Canada-United States Free Trade Agreement—Job Creation—Basis of Prediction.

(*The answer follows:*)

The figure of 251,193 projected net job gains as a result of implementation of the Canada-U.S. Free Trade Agreement is taken from a study entitled "An Assessment of the Canada-U.S. Free Trade Agreement", prepared for the Economic Council of Canada and published in April, 1988, as the Council's Discussion Paper No. 344. The figure was altered slightly for technical reasons (increased by 108 jobs) in the Statement of the Economic Council, "Venturing Forth: An Assessment of the Canada-U.S. Free Trade Agreement" published earlier this year.

The Council refers to the figures obtained as "the most likely outcome" with regard to the net overall impact of the Free Trade Agreement upon the Canadian economy. The honourable senator should consult the Council's documentation for a detailed explanation of the basis for the conclusions the report contains.

TRANSPORT

PRINCE EDWARD ISLAND—CONSULTATIONS ON DESIGN OF FERRY—RELOCATION OF TERMINAL

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question raised in the Senate on July 12 last by the Honourable M. Lorne Bonnell, regarding Transport—Prince Edward Island—Consultations on Design of Ferry—Relocation of Terminal.

(*The answer follows:*)

When the question of improving the Caribou-Wood Islands ferry service was being examined, officials looked at the service as a total system, and in addition to considering the type of ship required, they examined the question of terminal changes, including the possibility of moving the Caribou terminal to the Northumberland Strait shoreline. A preliminary investigation showed that the cost of relocating the terminal would be inordinately high.

The government's constitutional obligation to Prince Edward Island to maintain a year-round connection with the mainland is fully met by the government-funded ferry service between Borden and Cape Tormentine. It would also be met by a fixed crossing in the same location if a decision were taken to build one. The Caribou-Wood Islands ferry service is a seasonal operation designed to relieve traffic pressure on the Borden service during the summer months and to provide help to the Island's summer tourist industry. There is no federal obligation to provide winter ferry service at the eastern end of the Northumberland Strait nor is there any evidence of a real requirement. The government therefore has no plans to change the existing seasonal arrangements.

The need for a larger ship on the Caribou-Wood Islands run has been identified as immediate and the requirement could not be met in a timely manner by waiting until ships currently used on the Borden service could be transferred if a fixed crossing is built. Should a fixed crossing not be built, the Borden ships will continue to be needed on that service.

AGRICULTURE

PLIGHT OF TOBACCO FARMERS IN SOUTHWESTERN ONTARIO—AGENDA ITEM AT MEETING OF MINISTERS OF AGRICULTURE—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question raised in the Senate on July 13 last by the Honourable Colin Kenny, regarding Agriculture—Plight of Tobacco Farmers in Southwestern Ontario—Agenda Item at Meeting of Ministers of Agriculture—Government Action.

(*The answer follows:*)

The tobacco industry was not a specific agenda item at the recent meeting of Ministers of Agriculture but has been a topic of ongoing discussion between federal and provincial officials. The current situation in Ontario is being examined closely by federal, provincial and industry representatives and a report on the operation of the Tobacco Assistance Program and the condition of the industry will be submitted to ministers in the near future.

• (1420)

OFFICIAL LANGUAGES BILL

THIRD READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Flynn, P.C. for the third reading of the Bill C-72, An Act respecting the status and use of the official languages of Canada.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, perhaps it is because of my background and some experience with the subject matter of this legislation, but I am hard pressed to think of any law that has had as profound an effect upon Canadian society as have the attempts to reconcile and solve conflicting linguistic objectives in our country. When we think about it from an historical point of view, the early Canadians made quite a bold move when they decided to save the northern half of the North American continent for what, at the time, amounted to British institutions and at the same time to preserve two languages, although they were not then two official languages. Through the efforts and initiatives of Governor Murray and others, the early Canadians not only managed to resist the blandishments of those to the south of us to join them but also maintained the French culture and linguistic traditions. Indeed, at that time, as far as the Americans were concerned, those to the north of them were *Les Canadians*—simply "the Canadians", meaning French-speaking Canadians. Picture the situation at the time of the American Revolution. What could have been more logical than to invite the French Canadians to join the Revolution against the British? Indeed, such invitations were made and the French Canadians resisted them.

Senator Corbin: Some of us did.

Senator Frith: Enough of them did. I was speaking in general terms—I do not know of any human endeavour involving more than one person that is ever completely unanimous.

An Hon. Senator: Hear, hear!

Senator Frith: However, most French Canadians—and, most importantly, enough of them—resisted the invitations from the Americans to join the revolution against the British. From that perspective, the French Canadians saved the northern half of North America for the country we now know as Canada.

Senator Corbin: The Americans weren't that good, either.

Senator Frith: The Americans weren't that what?

Senator Corbin: They weren't that good, either.

Senator Frith: I am afraid I don't know what you mean.

Senator Corbin: They made some booboos, too, and they lost us.

Senator Frith: Well, honourable senators, we have now seen a human endeavour involving three people and no unanimity.

• (1430)

Honourable senators, I should say that I am, as you might have understood and as I said at the beginning, expressing my opinions. It is my opinion that, if the French Canadians had not resisted and had joined the American Revolution, North America would be all one country, and, by the way, there would not be any controversy over a Free Trade Agreement.

The legislation before us is a continuation of the determination to continue with this bold experiment that Canadians launched to establish a country in those difficult times and to add the difficulty of trying to do it in two languages. When the B & B Commission started, I can remember that none of us argued with a submission that was made to us frequently: Why are we not all just Canadians? We would then ask the question: Yes, why not be all Canadians, but what language are we going to speak? The persons who asked us those questions usually said, "Why, of course, English." "Why English?" "Because it is the language that dominates North America and is dominating the world."

It is much easier to run a country in one language. Look at the United States—a melting pot with only one official language. It will cost us so much to do this. It is so difficult. Why should we do it? Why should we try? Is life not difficult enough without trying to run a country in two languages? The answer is yes, I guess it is, but maybe we are bull-headed. Lots of people around the world ask us, "Why don't you run your country in one language?" But we continue to do it our way. We succeed to the point that, in my view, although only 25 years ago you could not have said this, that experiment is now irreversible, I am glad to say.

What the B & B Commission was struggling with was attitudes. As we held hearings in all parts of Canada, we heard these questions: Why do we not run the country with only one language? Why does Quebec not give up? Why do they not recognize the fact, and why do the Francophones outside not recognize the fact, that there is no point in trying to maintain the French language in North America? English is such a dominant language around the world and in North America that there is no point in trying to continue with two languages in Canada. Yet the same people would often say with breathtaking inconsistency that the French Canadians were trying to take over, as if there were any chance, in the context of the enormous domination of English in the world and in North America, that that was remotely possible.

On the question of attitudes, I ask honourable senators to think of themselves in the following position. Let us suppose that in all of North America the only political unit that speaks English is the Province of Ontario. The President of the United States speaks French; French is the language in British Columbia; French is the language all across the west; French is the language in the east; French is the language in Montana; French is the language in Washington; French is the language in New York; French is the language in Los Angeles; French is the language all over North America, except in Ontario, and you are a citizen of Ontario. You are being told, "Why don't you give up? French is all over North America. You can't possibly maintain English. You can't maintain your English culture. You cannot maintain your English language. It is impossible; give up!" Would you? Or wouldn't you, an Ontario Anglophone, say, "My language and culture are important to me and I believe our country will be a bilingual country. We are a concentrated minority and recognize that we are a minority, but we will try to maintain a bilingual country." That, in effect, is exactly all that Quebec and the Francophones outside Quebec have been saying.

This has been a magnificent adventure in majority-minority relations. During the B & B time we had inquiries from all over the world as to how we were doing with our experiment in majority-minority linguistic relations. We heard from Yugoslavia and from many other countries—Canada is not the only country in the world that has many languages. It was clear in the Canadian case that it was a majority dealing with one significant minority. So there was widespread interest in how we were doing.

We should take pride in our success, but there is a lot of work to be done. This legislation before us is work to continue the development of this adventure. We should be proud of how we have done it in Canada—that is, without the violence that often attends attempts at solutions to such problems. The Canadian tradition has always been to settle questions by discussion, by disagreement and by articulate and sometimes violent oratory. Not by machine guns and bombs in the town square. That is not our way.

A majority never gives up anything when it does something for a minority. It still stays the majority. The majority always has the last say. For a majority to make a concession to a minority takes nothing away from the majority, but adds a great deal to the majority.

Let me quote from the general introduction some words that I remember—in the first draft, at least—came from Mr. Laurendeau and Mr. Dunton, the co-chairmen of the commission. It is found on page xlvi of the introduction at paragraph 86. It states:

> Respect for the idea of minority.

> The principle of equality implies respect for the idea of minority status, both in the country as a whole and in each of its regions. Within the provinces or smaller administrative entities, both Anglophones and Francophones live in some cases as a majority, in some cases as a minority. Since the English-speaking population is larger across the country, its members are less often in the minority; but they are the minority in some areas, especially in the province of Quebec. The Francophones are usually in the minority outside Quebec. In either case, however, the principle of equality requires that the minority receive generous treatment.
>
> This proposal may seem Utopian, but is it really so? Recognizing the rights of a linguistic minority does not reduce those of the majority: with a little good will, the rights of both can be exercised without serious conflict, as is clearly demonstrated by the examples of Switzerland and Finland. In other words, a majority does not abdicate when it resolves to take a minority into consideration; it remains the majority, with the advantages its situation implies, while at the same time demonstrating its humanity.
>
> This is political wisdom too. The history of countries with more than one language and culture shows how often rigid attitudes held by majorities have made common life difficult, if not impossible. The use of force, in any circumstances, results in either revolt or submission. Besides, for the majority to hold back from acts within its power or to allow events it would be able to prevent, out of respect for the minority, is not a product of weakness but a step forward in civilization. In this spirit too will we approach the matter of the other minorities.

● (1440)

Honourable senators, when this bill was here for debate on second reading, I expressed some reservations about some of its provisions. With respect to the bill as a whole, I believe it reflects, as I have said, the principles described in the quotation I have just read, and I believe it is an important step forward in this evolutionary and highly civilized initiative taken by our country in linguistic and majority-minority relations. The reservations I expressed at that time were three: The first was about the clause that raises the possibility of applying the principle of equality in the public service on the basis of quotas. My second reservation related to the use of orders in council as a means to interpret and place into law administrative interpretations of the act and its principles. My third reservation dealt with what seemed to me to be extreme powers, or unnecessarily strong powers, granted to the commissioner and, in particular, the use of the courts.

On the question of quotas, the public administration aspect of the royal commission report is found in Book Three. During our discussions and during our historical review of the problem of representation, I remember the temptation, in view of the historic under-representation of Francophones in the Public Service, to resort to the "quota solution"—that is to say that if the population, as was the case then, is approximately 28 per cent francophone, then the Public Service of Canada should have 28 per cent francophone participation. That was the temptation that we resisted. I say we resisted it in spite of the following, which was a part of our historical review. I quote from page 101, paragraph 260:

> There was a precipitous decline of the French-speaking proportion of the total public service after the establishment of the Civil Service Commission.

That was the establishment of the so-called merit principle, a principle worthy of support; but the difficulty was that "merit" was interpreted to include the ability to speak English. The paragraph continues:

> Although precise estimates are not available, it appears that Francophones made up about 22 per cent of all federal employees in 1918 but less than 13 per cent in 1946.

The temptation was to apply a quota system in order bring the representation back up. The commission's feeling—and you will look in vain through this report to find any support for the idea for this—was that the use of quotas was undesirable for two basic reasons: first, it was insensitive to the objectives of the legislation—namely, service to the public and opportunity to work in one's own language. It is insensitive because, of course, to be sensitively applied, it should be applied in a way to meet those needs, and they cannot be met by rigid application of quotas. Some departments would need more and some less for language of service, and some departments and units within those departments would need less and some more for language of work.

My concern was with Part VI, which deals with equitable participation and establishes the principle that both language groups should be fairly represented and enjoy full participation in the work of government. So long as we are talking about fair representation and full participation I have no difficulty. However, I wanted to ask the minister about this point, and the minister has assured me that the principle is not one of quota but one of fair representation only. I was provided with some material by a Mr. Patterson, who had analysed the situation in the Department of Energy, Mines and Resources and expressed the feeling that a quota principle was being applied in that department. Upon further study, I found it open to interpretation.

Senator Guay: He disagreed with the minister.

Senator Frith: Yes, he disagreed with the minister. I believe he sent material to some of us saying that the minister was incorrect with regard to the quota principle.

Senator Flynn: Who is the minister?

Senator Frith: Mr. Hnatyshyn. Mr. Patterson is probably correct in his figures, but the conclusion he draws from those figures does not support the theory that the federal public service is now applying a quota system. Even in rejecting the quota system, our commission agreed that in some situations more participation is necessary than in others and that some departments may very well wish to, and are entitled to, increase the representation of Francophones or Anglophones

according to their own needs. The overall picture in the federal public service is the important one. I was reassured by the minister on that point. I was not so reassured on the other two.

My second point dealt with orders in council. As a matter of principle, I believe it is dangerous for Parliament to delegate to the administration, in effect, the power to legislate by order in council. Parliament has done so here, and it has done so more than it ought to have, although I understand the motivation in doing so.

Excuse me for continuing in such a subjective vein, but, when I was legal adviser to the first Commissioner of Official Languages, problems occurred frequently about interpretation because of lack of clarity in the legislation. I suppose from my professional point of view that was a good thing. I can understand the temptation and desire of the administration, for the best of all reasons, to have more flexibility in interpretation by the use of orders in council.

• (1450)

Of course, when Parliament delegates its legislative authority, it usually does so in a worthy cause. However, that is not sufficient reason to do it, and I believe, honourable senators, that we should keep vigilant attention on the use of orders in council for the implementation of this legislation, because, in spite of what I have said about majority-minority relations, in that the majority gives up nothing when it gives something to the minority, attitudes are important and majorities have sensitivities, too, and it would be unfortunate if, by overkill, we gave a reason for any hypersensitive groups within majorities to feel anxious and, as a result, to oppose this desirable legislation.

There is the usual, or what has become popular, answer to government by order in council and that is parliamentary review. The difficulty with parliamentary review here is that, while any orders in council made to implement this legislation must be laid before Parliament, parliamentary approval is not necessary for them to take effect. Having decided, as I believe we have, to give away some of our legislative power to implement this desirable objective, and having done so subject to parliamentary review, I urge vigilance and that we keep an eye out when Senator Doody tables such regulations. We should ensure that they are drawn to the attention of the Joint Committee on Official Languages and the Joint Committee on the Scrutiny of Regulations to be sure that there has not been excessive use of this power we are delegating to the administration.

The third and last reservation I had dealt with was the general question of the commissioner's powers and the fact that the courts are now going to play a role in the implementation of Canada's official languages policy.

I mentioned at second reading debate that the normal role of an ombudsman, which is what the commissioner has been up to now, is to investigate complaints, to investigate on his own initiative, and to make recommendations. That is so of all the provincial ombudsmen who deal with general complaints against the administration.

Again, I can understand why the commissioner and others are looking for further powers. It is because one can feel rather helpless that, after conducting an investigation, after supporting it with a report and making recommendations, nothing happens. That was the scheme of the original Officials Languages Act.

This legislation establishes an important additional power, and I flag it for the attention of honourable senators. I still have some doubts about whether it is necessary. It will now be possible for the commissioner and others to resort to the courts if their complaints are not satisfied, and the courts can make an appropriate judgment. The exact wording is "an appropriate and just remedy". That, of course, could include a civil remedy; it could mean damages; it could mean a mandatory order; it could mean an injunction on the civil side; or it could mean a criminal penalty if the courts thought that it was appropriate and just. We doubt that that would ever happen. I note that Senator Flynn is shaking his head.

Senator Guay: He often does.

Senator Flynn: You are always bowing.

Senator Frith: If it were Mr. Justice Flynn, I would not worry about it, because Mr. Justice Flynn would not consider a criminal order.

Senator Flynn: There is no penalty attached to that provision.

Senator Frith: Again, Senator Flynn and I apparently disagree, but I am bound to say—and correct me if I am wrong, Senator Guay—that I asked the Minister of Justice that question—and it is true that Senator Flynn is a former Minister of Justice—and the present minister turned to his officials and said that, yes, it could include criminal remedies.

However, I agree with Senator Flynn that it is unlikely this would happen, but I also agree with his colleague, Mr. Hnatyshyn, and his advisers that it could include that.

Senator Flynn: He does not know.

Senator Frith: Do you mean that he is like Mr. Crosbie, in that he has not read his own legislation? Honourable senators, I assume that he has read it.

Hon. Douglas D. Everett: I should have thought, honourable senators, that there was a principle of law, well established, that a criminal offence had to be defined specifically and a specific penalty provided for that offence. With all due respect to the present Minister of Justice and his advisers, I find it hard to believe that you can establish a criminal offence on that language which has just been read.

Senator Frith: Senator Everett may, but I do not. I am familiar with the principle to which Senator Everett refers. The same principle applies for taxing legislation: You must specifically provide for the imposition of a tax or for the imposition of a criminal offence. However, I say to both Senator Flynn and Senator Everett that it is left to the court to decide what is appropriate and just. It is not a matter of reading some sections of a statute, knowing that the court will

interpret those sections and, in interpreting those sections, will apply the principle. This leaves it to the court to decide whether it is appropriate and just, and I think that is quite a distinction.

Senator Everett: I also think it is a distinction. I would merely point out or suggest that, if the honourable senator were representing a client who had been incarcerated for having breached that section, he would very quickly take an appeal.

Senator Frith: Yes, I would very quickly take an appeal.

Honourable senators, the point of all this is to reassure me that there is no problem. I am open to such reassurance, but I have to say that when I took the appeal the same words would be before the Court of Appeal. What could be argued on the other side would be that that is all very well, but the trial court made a decision it thought was appropriate and just.

Senator Flynn: To send someone to jail?

Senator Frith: It made a decision that it thought was appropriate and just. The argument would be that the words the lower court relied on were the words in the statute—that is "appropriate and just". The Court of Appeal would have to deal with those words, just as the trial court did, and so would the Supreme Court.

I hope honourable senators are all reassured that I am giving a too draconian interpretation—and I probably am—and that you are reassured by Senators Everett and Flynn that there is nothing to worry about. Perhaps I am stretching it as to criminal possibilities, but not as to the civil.

Senator Doody: You must be flattered that people are listening so attentively.

Senator Frith: Yes, I am, but that is really another matter.

Under the basic principles of the act, the role of the commissioner, essentially, was to advance the principles of institutional bilingualism in the federal administration, and, of course, that meant the commissioner, as I said, played the role of an ombudsman, making recommendations to departments. The publicity, the recommendations to the Governor in Council and all of those sanctions were meant to bring about implementation of the policy.

• (1500)

Now departments can be taken to court. Departments of the federal government can actually be taken to court for not complying with recommendations and with the principles of the act, and even the principle, as I mentioned earlier—which I will not get into as being perhaps too arcane—that evidence of similar acts can be admitted into evidence against them, although normally evidence of similar acts is not admissible—that is, to attempt to prove that they had offended this time because they had done so before.

Honourable senators, I have, I suppose understandably—I hope understandably—spent more time on my reservations and my caveats or warning signals about this legislation than I have spent on my support for it, but I return to where I started. I believe that, essentially, this legislation, subject only to those caveats, is another step forward in the promotion of a very civilized Canadian tradition—one I believe we should all be proud of, the outstanding success of our experiment in linguistic justice and for justice between majority and minority. I hope it will soon become law.

[Senator Frith.]

Hon. Eymard G. Corbin: Honourable senators, I should like to put a question to Senator Frith. I do not argue with most of the comments he made; however, in the premise to his remarks he did allude to the faithfulness of the French Canadians to the British Crown in the 1775-76 invasion by the Americans into the Canadian colony, as it was at that time.

Was he suggesting that a majority of French Canadians fought the invasion on the basis that they felt their language was being put at risk? I am not attempting to put words into the mouth of the Honourable Senator Frith; I am trying to understand why it was that he invoked that particular period in our history in relation to the Official Languages Act, which, of course, I support. Could he clear that up?

Senator Frith: Yes, I am glad to have the chance to do so, and I am glad the Honourable Senator Corbin put the question in the words he did, namely, "faithfulness to the British Crown", because I do not want to give that impression at all. History is an art of interpretation.

I do not believe that the refusal to join the American Revolution was based either on faithfulness to the British Crown or on the feeling that language would be better protected if they resisted those blandishments.

My statement was that they did, for whatever reason, and that as a result thereof it could be said that there would not be a separate country in the northern half of North America if they had not done so, because of their strong majority position at that time.

And if we want to take it one step further, in my opinion, if, for their own reasons, instead of rejecting the call to join the American Revolution, they had joined it, I doubt that North America, since it would then be one country, would have two official languages today.

Senator Corbin: I do not want to engage in debate. Perhaps I can make that a topic of an inquiry at some other time, since we are pressed today and this week, but I would suggest today for the record that the French Canadians were loyal to the British Crown because the Bishop of Quebec got involved and saw grave danger to the Roman Catholic faith. It was on those grounds that he managed to scrounge enough French Canadians to support Guy Carleton, Lord Dorchester, to fight on the side of the British and to repulse the American attack.

The Americans were most inept. Even though they had managed to take St-Jean, Fort Chambly and Montreal, Lord Dorchester was able to flee in the middle of the night. He could thank the rapid currents and favourable winds of the night. He reached Quebec in safety. He locked himself in the citadel and threw out all of those who wanted to join the American Revolution. Had it not been for the ineptness of the logistics of American supplies and troops, the grave difficulties that Benedict Arnold encountered in the wilderness of Maine

and the lower reaches of the Chaudière River, I think that history would have been reversed. Had that majority of French Canadians joined the American Revolution, we would be just another state of the Union today.

I do not think it had anything to do with language at that time. The reasons events unfolded as they did were based principally on considerations of religion.

Senator Frith: Honourable senators, I am glad to have that added to the record. I repeat what I said just a moment ago: the result was that there was a separate country for the northern half of North America, for whatever reason, and another for the southern half of North America, and I still say that, if it had been otherwise, North America, as one country, would not now have two official languages.

[*Translation*]

Hon. Jacques Flynn: If Cleopatra's nose had been a millimetre longer, our world would not have looked the same.

[*English*]

Senator Frith: I am prepared to end this history lesson at any time, but I am also prepared to proceed with it.

Hon. Arthur Tremblay: Honourable senators should remember that the invasion by the Americans took place in 1775, if I remember correctly.

Senator Corbin: Correct.

Senator Tremblay: That was a year after the passage of the Quebec Act in 1774, which included at least one of our basic principles in the Constitution of 1867; that is, laws relating to civil rights and property.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if nothing else has come out of this debate, it has taught me a very valuable lesson: I will not mention Quebec's history in the discussions taking place this afternoon.

In any event, on behalf of Senator Murray, I should like to thank the participants in this debate and the Special Committee of the Senate in dealing so expeditiously with this bill. This is a very important piece of legislation, as has been pointed out by the people who have entered the debate.

I would simply like to thank the participants on behalf of the sponsor, Senator Murray.

Motion agreed to and bill read third time and passed.

● (1510)

ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE BILL

THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), for Senator Balfour, moved the third reading of Bill C-121, to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain acts in consequence thereof.

Motion agreed to and bill read third time and passed.

INDIAN LANDS AGREEMENT (1986) BILL

THIRD READING

Hon. Mira Spivak moved the third reading of Bill C-73, to provide for the implementation of an agreement respecting Indian lands in Ontario.

Motion agreed to and bill read third time and passed.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—SECOND READING

Leave having been given to proceed to Order No. 10:

Resuming the debate on the motion of the Honourable Senator Phillips, seconded by the Honourable Senator Marshall, for the second reading of the Bill C-126, An Act to amend the Bretton Woods and Related Agreements Act.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, Bill C-126 is a short bill—several paragraphs in length and a total of 36 lines—but the size of the bill is certainly no indication of its importance nor is it any indication of the problems that the bill itself is attempting, through the International Monetary Fund, to deal with.

As Senator Phillips has told us, the International Monetary Fund, through the enhanced structural adjustment facility, will, it is hoped, receive an additional $10 billion in order to assist the poorest debtor developing countries. It is an indication of the continuing effort of the International Monetary Fund and the world community to cope with the problem of indebtedness.

Honourable senators, the indebtedness of the poorest countries dealt with in this bill is serious and acute, but it has not attracted the same international attention as have the debt problems of the middle income countries such as Brazil, Mexico and Argentina, because, in the main, the debt of these latter middle income countries is held by the commercial banks while the debt of the poorest countries is held by governments and international institutions. While the burden of the debt on the poorest countries is, in some cases, a crushing burden, nevertheless, its impact on the international financial community is not as great, because, if default took place, it would not threaten in the same way the commercial banks and, accordingly, the international financial community.

Much can be said about this subject, and I will certainly not take advantage of the patience of my colleagues in saying a great deal, but I should say that the Senate itself, through the Standing Senate Committee on Foreign Affairs, dealt with the question of the international financial institutions and the debt problem of developing countries. That committee's report was published in April of last year and does, I think, contain a good analysis of the situation. It also contains some recommendations that are quite consistent with the action that is proposed in this bill. Honourable senators will note that on pages 120 and 121 of the Senate's report there are outlined the principle programs of the International Monetary Fund that

were organized to help debtor countries experiencing longer-term debt servicing problems.

The most recent fund or facility, the Structural Adjustment Facility, was established in 1986 for the purpose of helping low income member countries with serious balance of payments problems to implement medium-term structural adjustments. Senator Phillips has pointed out that the Venice Summit took a further initiative and provided for what is now described in the bill as the Enhanced Structural Adjustment Facility, which, presumably, is "enhanced", and so called because of the infusion of an additional $10 billion Canadian.

I should say, honourable senators, that Canada has always been a strong supporter of international financial institutions, including the International Monetary Fund, the World Bank and the regional development banks, to mention the principal ones. Accordingly, we have consistently dedicated a substantial proportion of our international assistance to the maintenance of a strong Canadian presence and a strong Canadian commitment to the viability of these international financial institutions, including the International Monetary Fund.

● (1520)

The Senate committee, after a good deal of evidence and discussion, and despite criticisms that have been made of the International Monetary Fund, did conclude that the fund had played a significant role in international financial assistance, rescheduling and stabilization, and that it ought to play a key role in the future. The fund has attracted criticism in making available assistance—either short-term balance-of-payments assistance or longer-term structural adjustment assistance to debtor countries—because it has at the same time insisted that the recipient countries undertake remedial measures to improve their economic performance. All of those remedial measures have not been easy to apply, have been very painful and, in some cases, have increased the hardship of the citizens of these particular countries.

One can debate the severity of the medicine applied by the International Monetary Fund in particular circumstances, but the Senate committee was of one mind in concluding that a chief responsibility for the economic improvement of all debtor countries rested with these countries themselves. It was clear to the committee that, in certain cases, the debt problem had gone out of control because of what we would describe as misguided economic policies. It was clear in the case of certain countries, particularly the middle-income countries—not the countries involved in this bill—that the public sector was extended so that the entrepreneurial spirit and private investment, particularly from abroad, were not greatly attracted to that kind of environment. It has to be emphasized that, as the international community comes forward to assist the debtor countries, there is a responsibility on the debtor countries to apply remedies of their own.

I should like to conclude rather quickly, honourable senators, in order to give the minister an opportunity to answer questions.

[Senator MacEachen.]

With respect to the middle-income debtor countries—Brazil, Mexico, Argentina and so on—the situation has somewhat improved. Certainly, the position of the commercial banks has somewhat improved. It is still a fact that the debt problem is one of the major international problems threatening the stability of the world economic system. If I am not mistaken, the summit leaders in Toronto took great pains to concentrate upon what further steps could be taken to improve the situation of the debtor countries, particularly the middle-income debtor countries.

In this particular bill, Canada, in accordance with its sound tradition and consistent performance of the past, is coming forward to make its contribution through this facility of the International Monetary Fund, which will help the poorest countries, particularly the poorest countries located in sub-Sahara Africa. The Senate committee drew particular attention to the situation of the low-income debtor countries. The report says:

> . . . on a per capita basis, the debt of the low-income African countries is higher than that of Latin American debtors, their debt has grown faster and their debt service burden is as heavy or heavier. For many of the poorer debtor countries the outlook for the next ten years is bleak, and nowhere is it bleaker than in low-income Africa where even under optimistic assumptions, per capita incomes are projected to decline.

Senator Phillips, in introducing the second reading of the bill, used the expression that the intent was to assist countries "to maintain economic growth". Perhaps it would be better to say "to resist the decline of greater economic stagnation, particularly in low-income Africa." They are faced not with rising prosperity, not with greater economic growth, but with greater poverty. That is very worrying indeed. It does not represent the same threat to the international financial system, although it is not as good as the situation potentially in Latin America. However, it is certainly disturbing from an international humanitarian point of view.

Honourable senators, the committee report made the point, which I made earlier, to the effect that there is a pressing need for domestic economic policy reforms in those countries:

> . . . many of them lack even the most basic infrastructure, as well as the cadre of trained personnel at almost every level in the government, . . .

and reform is necessary in the industrial and financial sectors.

What is proposed in this bill is certainly much to be welcomed and much to be supported, because it will make a contribution. If it will not reverse the predicted decline in the economies of these countries, it will at least ameliorate the condition of distress and poverty that prevails in these countries.

Honourable senators, that is all I wish to say on this occasion.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE OF THE WHOLE

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that the bill be referred to a Committee of the Whole and that the Senate do now resolve itself into a Committee of the Whole for that purpose.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Doody, seconded by the Honourable Senator Macdonald (Cape Breton), that this bill be now referred to a Committee of the Whole.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

CONSIDERED IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Senator Robertson in the Chair.

The Chairman: Honourable senators, the Senate is now in Committee of the Whole to consider Bill C-126, to amend the Bretton Woods and Related Agreements Act.

Senator Doody: Honourable senators, if it is the committee's pleasure, I would ask permission to escort Mr. Hockin, the Minister of State (Finance) into the chamber.

• (1530)

The Chairman: While Senator Doody is escorting the honourable minister in, shall the title be postponed, honourable senators?

Hon. Senators: Agreed.

The Chairman: Carried.

Pursuant to rule 18 of the Rules of the Senate, the Honourable Thomas Hockin, Minister of State (Finance), was escorted to a seat in the Senate chamber.

Senator Doody: Honourable senators, I should like to present the Minister of State (Finance), the Honourable Tom Hockin, who will be pleased to answer any questions you have on Bill C-126.

The Chairman: Thank you, Senator Doody.

Mr. Minister, we welcome you to the Senate this afternoon. Please feel comfortable in remaining seated while you answer our questions, if that is your wish.

You may have an opening statement, sir. Please proceed; the proceedings are in your hands.

Hon. Thomas Hockin, Minister of State (Finance): Madam Chairperson, I have an opening statement, but I was listening to the comments of the Leader of the Opposition in the Senate and in the last 15 minutes he summarized what this bill tries to do. I have also read what has been said before in this chamber on the subject. I think it might be redundant for me to give an introductory set of comments.

However, there are two things that I might say. First, this facility is different from the standby facility that the IMF ordinarily operates. This is meant to build on the productive capacity of a country rather than to solve the demand problems that exist with the balance of payments of the recipient countries.

Second, it gives a longer pay-back period, which gives flexibility, which is very welcomed by these countries. I think these points have been acknowledged in this chamber.

I might make a couple of comments. The Leader of the Opposition said that he thought things were better for the middle-income countries. I would make two distinctions here.

First, they are operating with more presence of commercial banks. I would not be as optimistic as he is about the situation improving. There are great difficulties, especially now with Argentina, the relationship with the IMF and working out an arrangement with the commercial banks. So, although this bill does not speak to that, I would not be quite as optimistic as he was at this stage. Maybe we will have good news in a few weeks, but the situation that we are seeing with middle-income countries is not encouraging.

I would also suggest that this is not a facility just to slow down the inevitable sinking of these economies, which was another reference that I heard ten minutes ago. There are some economies in the sub-Sahara and Africa as well that will grow. They will not just see their problems temporarily, in a palliative sense, dealt with, but will in fact grow.

With those two caveats, I should like to make myself available for questions.

The Chairman: Thank you, Mr. Minister.

Honourable senators, do you have questions for the minister?

Senator MacEachen: Honourable senators, I am pleased that the minister has referred to my comment about the future prospects of the African countries, because I intended to ask him whether he had a view on the projection contained in the Senate report of last April in which it is stated—and I will repeat the sentence again—that:

> For many of the poorer debtor countries the outlook for the next ten years is bleak, and nowhere is it bleaker than in low-income Africa where, even under optimistic assumptions, per capita incomes are projected to decline.

I want to ask the minister whether in the interim it would be possible to say that that is now a valid projection and that, instead of the decline of per capita incomes, there may be at least a levelling off or some slight increase.

Mr. Hockin: No; I would say that the projection is still accurate. From what I know, and from the briefings that I have had, the projection is still accurate. It is just that there will be some countries that will show some success.

Senator MacEachen: To use the wording in the Senate report, "it is a bleak outlook", and it is still bleak. Low-income

Africa is in bad shape. Therefore, whatever we can do to help is quite justified.

Another question, if I may address it to the minister, is the question which I addressed earlier to Senator Phillips when he introduced the second reading of the bill, namely, the question of whether the United States had contributed. The answer is, "No. The United States is not contributing to the Enhanced Structural Adjustment Facility."

It is not a new incident in that the United States has failed in recent years to measure up to its international responsibilities not only in contributing to the World Bank but also other multinational organizations. I deplore that.

What I ask the minister is: Can you throw any light on the reasons which the United States has advanced for not coming forward? Is the problem in the administration or in the Congress? In the circumstances of no contribution from the United States, has the burden for other countries been increased, and is the United States of a mind to pick up its contribution at a later date?

I know that Canada has no control over this now any more than it did in the past, but we should maintain the pressure on the United States to pick up its responsibilities.

Mr. Hockin: The U.S. government has informed the IMF that it is not in a position to make a contribution at this time.

For the moment the United States administration has given priority to ensuring that the general capital increase for the World Bank is approved by Congress. It is not going too far to say that the chances of that are good. It is a good, strong capital increase that they are coming forth with. That, hopefully, will be done soon.

It is my hope, though, that the new administration that will take office early in 1989—be it Republician or Democrat—will review the U.S. position on a contribution to the enhanced facility.

The reasons they give are simply ones of priorities. They simply say that the World Bank capital increase is vital, and they want it to be a meaningful increase. Indeed, what is before the Congress is quite meaningful—I think $74 billion is being looked at. Therefore, that is where the priority lies, and I think it is fair to say that we have not had the enhanced facility underfunded but that it has been quite well funded. Mr. Camdessus has done quite a good job of filling his hat as he has taken it from capital to capital.

● (1540)

Senator MacEachen: Presumably, when the fund was created—and Senator Phillips has told us that this particular facility was initiated at the Venice Summit—am I to believe that at the Venice Summit the summit leaders approved the facility and the President of the United States said: "No, I will not contribute."? Can you throw any light on that?

Mr. Hockin: Yes, I am informed that the President of the United States, at the Venice Summit, indicated that the United States would not be contributing.

[Senator MacEachen.]

Senator MacEachen: Very well. The United States has not had a good record on the World Bank with respect to the capital increase and other efforts to provide resources to the World Bank. Within the World Bank there was a principle of burden-sharing, and at times when the United States failed to come forward other contributors were appealing to the principle of burden-sharing to bring in the United States. That failed, and other countries, including Canada, had to make temporary provisions for the failure of the United States to participate.

What I am asking here is: Has it been necessary for other countries to ante up more because the United States has failed to come forward, or has the total funding been reduced because of the failure of the United States to come forward? Further, what amount would be expected from the United States toward the amount required for the facility which Senator Phillips reported was $10 billion Canadian? In other words, how much is being lost because of the failure of the United States to ante up?

Mr. Hockin: There are two questions there, senator. On the first question of the United States not participating in burden-sharing within the World Bank, I think that your characterization is not a fair one. The United States has carried its burden within the World Bank and will continue to do so. As I have said in my previous answer—and the administration has fought very hard for this—it looks as though Congress will be coming forward with a substantial contribution, which will be, as I have said, over $70 billion.

Senator MacEachen: I disagree with the minister, because there have been circumstances within the past five years—or certainly with the past eight years—when the United States has failed to carry its burden in the World Bank and, as a consequence, other countries, including Canada, have had to make special arrangements. I do not think the minister should let the U.S. off the hook so easily.

Mr. Hockin: I would defer to the senator's memory with respect to the historical aspects of these matters. However, the point I am trying to make is that the Americans feel that they have been sharing the burden generally within the World Bank. There may have been years when their sharing was not what the senator would have liked. However, I am reminding the senator that the fact that they have not yet agreed to a contribution through the U.S. Congress should not be regarded as a done deal. It looks very much as though they will be contributing, and contributing substantially.

Senator MacEachen: What, then, would their share be?

Mr. Hockin: Senator, do you mean to the World Bank or to the IMF?

Senator MacEachen: I mean to the Extended Fund Facility.

Mr. Hockin: I think their share in the World Bank is close to $74 billion. With respect to the Enhanced Facility, I think their share would be around $2 billion of the $8 billion or $9 billion total.

Senator MacEachen: In any event, I do not want to stay on that point, but I think it is worthwhile to underline that the U.S., even though this program was approved at the summit, has failed to come forward and that that failure is not a new failure in terms of its support for international financial institutions, including the World Bank, and I can only say that—

Mr. Hockin: Senator, may I just say this in response: I think that all senators are aware that the Government of Canada has been pressing the U.S. to carry its burden in both the World Bank and the IMF. Indeed, we have expressed our disappointment that they are not participating in this facility, and we think they should be so participating.

Senator MacEachen: Madam Chairman, I certainly appreciate that statement by the minister, and I believe that it is important that Canada continue to express its disappointment and to press the U.S. on this matter.

May I turn to one or two other points having to do with the purposes for which these funds are being provided? As the name implies, it is intended to assist debtor countries or low-income countries to undertake structural adjustments rather than to assist them with their short-term liquidity problems. I take it for granted that, in extending funding to a country under this facility, there will be programs or policy reforms that will be recommended by the International Monetary Fund. My question is: For the benefit of the committee, would it be possible for us to have a list of the countries that are eligible, or may be eligible, for this funding? Further, if any have already received funding, could we have some information on the kind of policy reforms that those countries have been asked to undertake and over what period of time?

Mr. Hockin: I have a list here of the low-income developing members who are eligible for assistance under the Enhanced Structural Adjustment Facility. It contains the names of almost 50 countries, and I could table this with the Senate, if you wish.

Senator MacEachen: That would be helpful.

Mr. Hockin: Just to give you the flavour, a number of countries, such as China and India, have quotas here which they are not exercising. In other words, at the present time they will not be moving in and taking the place of a sub-Saharan country that badly needs assistance under this program. They are eligible to do so, but they will not necessarily be taking up their quota. Therefore, this list indicates the quota to which each of the listed countries is eligible. However, they may not, in fact, take up the quota for which they are eligible. For example, of the total $8.7 billion, India's share is $2.2 billion and the People's Republic of China's share is $2.4 billion. Adding both of those amounts together, that is equal to almost half of the total fund. However, both of those countries have said that they will stand aside and let the other countries take up their quota.

In any event, senator, I will table that document.

Senator MacEachen: Madam Chairman, if it is convenient for the minister, perhaps he would mention a few of the African countries that are eligible and the sums for which they may be eligible.

Mr. Hockin: I would be glad to, senator.

Benin, $31 million; Burundi, $42 million; Chad, $30 million; Djibouti, $8 million; Equatorial Guinea, $18 million; Ethiopia $70.6 million; Gambia $17 million; Ghana $204 million. There is a country, from what I understand, that has a chance for economic growth, but it is difficult to predict these things. Guinea, $52 million; Guinea-Bissau, $7.5 million; Kenya, $142 million; Madagascar, $66 million; Liberia, $71 million; Lesotho, $15 million; Maldives, $2 million; Malawi, $37 million; Mali $50 million; Mauritania, $33.9 million; Mozambique, $61 million; Niger $33 million; Rwanda, $43 million; Senegal, $85 million; Sierra Leone, $57 million; Somalia, $44 million; Togo, $38 million; Uganda, $99 million; and Zambia, $270 million. That gives you some flavour of the African recipients and the quotas they are eligible for.

• (1550)

Let me move to what the program is to be used for. Adjustment programs supported by these resources will concentrate heavily on measures to improve the supply or the productive capacity of the economy concerned rather than on some of the other things dealt with by the standby line of credit. For example, policies that encourage more efficient investment decisions or establish producer prices that ensure an adequate return to farmers will be a focus of these programs. I am also told that improved macroeconomic management will also be carefully monitored, but the supply capacity of each recipient economy is to be the centrepoint of the adjustment program.

The second characteristic is that the time horizon for bringing about policy reform will be longer with this facility in recognition of the limited implementation capacity of many of the governments of the poorest countries and the very severe difficulties they face.

Senator MacEachen: Would the program be a five-year or a ten-year one? How long will it extend?

Mr. Hockin: It can extend for up to 12 years under this facility.

Senator MacEachen: Madam Chairman, may I ask if any countries have received funding under this facility?

Mr. Hockin: I do not have an update and my official does not have an update, but some countries have received funds under this facility, yes.

Senator MacEachen: I wonder if we could have that information at some later point. I do not want to insist upon it today, but I would find it useful to have a list of the countries that have received funding and a list of the program reforms which the IMF has asked for in those countries.

Mr. Hockin: I would be glad to see that that is done. It might be helpful if I gave you some kind of flavour of what kind of policy reforms are expected under this particular

facility. Some typical examples would be the removal of price controls, the posting of real interest rates in the country, reduced fiscal deficits and more open trade or less restrictive trade. These are the sorts of things this facility could encourage.

Senator MacEachen: It is not my intention to belittle in any way the importance of this additional facility. However, when one hears that a sum, for example, of $142 million is available to a country like Kenya, one thinks that it is a relatively modest amount. Can this amount for which Kenya is eligible under this fund be combined with other resources, from, for example, the World Bank and other countries, to make a more impressive package of financial resources that would have a greater impact?

Mr. Hockin: The honourable senator has raised a good point. As a matter of fact, I met this morning with the Minister of Finance from Kenya and we discussed this point. They are eligible for other mixes of finances from, for example, the Paris Club and other facilities within the IMF and the World Bank. When I asked him whether he would like to have received a greater quota, he said that he would, but that it was not a great concern because they have good access to a mix of programs available. Of course, these countries also look to bilateral programs with Canada and other countries. For example, Kenya is in a position where it can really take advantage of this benefit, as their economy is much stronger than the economies of some of the other sub-Saharan countries.

Senator MacEachen: Madam Chairman, I have a question about terminology used in the bill and terminology used by Senator Phillips. Clause 1, which adds a new section 5.1(1), tells us that the minister may lend the IMF a sum not exceeding $550 million. Senator Phillips told us that the bill will authorize a Canadian contribution. I wonder whether that contribution is intended to be a loan. It does not have quite the same flavour to say that it is a contribution when, in reality, it is a loan.

Mr. Hockin: Canada's proposed contribution of about $550 million Canadian will come from the Consolidated Revenue Fund. It will be considered a non-budgetary expenditure. As a loan, it is secured by the IMF trust fund which guarantees it, and it will pay market interest rates. This amount will be paid out over three years; so a cheque will not be written tomorrow for the total amount. There is also provision for a second contribution, which will be a grant. It is necessary to bring the interest rate and Canada's contribution down to 0.5 per cent. Our contribution to that grant is $250 million, and it will be doled out, chunk by chunk, to buy down the interest rate as this facility is used. It is not expected to be over $30 million per year. That, of course, is a budgetary item, and that is coming out of our ODA budget.

● (1600)

Senator MacEachen: Do I understand you correctly that the $550 million is a loan?

Mr. Hockin: That is right.

[Mr. Hockin.]

Senator MacEachen: A loan that attracts an adequate rate of return?

Mr. Hockin: That is right.

Senator MacEachen: And am I correct that the grant basically reduces the interest burden to the recipient of that loan?

Mr. Hockin: We are not unique here.

Senator MacEachen: I want to understand the process. The $550 million is an investment, in a sense, and it is, therefore, a non-budgetary item. We receive interest on it.

Mr. Hockin: That is right, and it is guaranteed by the trust fund of the IMF.

Senator MacEachen: Let us say that it is welcomed by those countries, but it is not an item of expenditure by the Government of Canada.

Mr. Hockin: No, it is a non-budgetary item; that is right.

Senator MacEachen: And the beef is the grant.

Mr. Hockin: That is right, and we pay down the interest rate through this grant.

Senator MacEachen: May I just conclude by going back to a comment which the minister made on the middle-income countries and middle-income debtor countries? I had expressed the view that their situation was somewhat better and that the situation of the banks was somewhat better. Perhaps I am quite wrong on that, but I thought, for example, Mexico was significantly better off than it had been. Brazil, I understand, has not yet worked out its arrangements with the IMF, but it has softened its stand on its moratorium on debt payments. I had the view that the situation had eased to some extent, and I would appreciate the views of the minister, who is much closer to these situations than I am.

Mr. Hockin: It is not helpful to characterize the whole basket of countries called "middle-income countries" as situations that are improving or deteriorating. One has to break into the basket and look at it country by country.

I am concerned with the situation relating to Argentina. The balance of payments situation has deteriorated there. Their budget deficit has increased. They are having trouble structuring any kind of relationship with commercial banks or the IMF. That is a great concern. That was in the foreground of my thinking when I thought of these countries. There are other countries, amongst middle-income countries, where things are improving. I would not be Pollyanna-ish about the situation, because we are still at a very difficult stage.

Senator MacEachen: Mexico has bettered its situation.

Mr. Hockin: Yes.

Senator MacEachen: And Brazil is less militant in its international outlook.

Mr. Hockin: Yes, but that is a worry too.

Senator MacEachen: They are cause for concern, but I suppose it is a matter of the degree of worry—that is, where the worry is registered on the thermometer.

The Chairman: If there are no further questions of the minister, I thank him very much for coming this afternoon.

Mr. Hockin: Thank you, Madam Chairman.

Hon. Senators: Hear, hear!

The Chairman: Honourable senators, shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Senator MacEachen: I would just make a comment before the bill is reported and draw the attention of honourable senators to the final sentence, which is as follows:

> Any sum or sums required for the purposes of this section shall be paid out of the Consolidated Revenue Fund.

I do not expect Mr. Hockin to understand why I am saying that, but it relates to a speech I made yesterday dealing with the question of appropriation bills. This, presumably, is an appropriation of the Consolidated Revenue Fund.

Senator Barootes: It is a money bill.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

Senator Doody: Madam Chairman, I move that the committee rise and report the bill without amendment.

The Chairman: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Brenda M. Robertson: Honourable senators, the Committee of the Whole, to which was referred Bill C-126, to amend the Bretton Woods and Related Agreements Act, has examined the said bill and has directed me to report the same to the Senate without amendment.

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

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

ELECTORAL BOUNDARIES READJUSTMENT ACT

BILL TO CHANGE NAME OF ELECTORAL DISTRICT OF CHAPLEAU—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Flynn, P.C., seconded by the Honourable Senator Doody, for the second reading of the Bill C-308, An Act to change the name of the electoral district of Chapleau.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I want to support this bill.

I was not here during the debate yesterday, but I did read the *Debates* so I know what Senator Flynn had to say. I also know about the question asked by Senator Molgat to which Senator Flynn was going to respond today. I shall give him an opportunity to do that.

Senator Flynn may not have noticed, since I do not imagine he narcissistically reads his own speeches as I do, but, since he knows that the member is a woman, I would point out that a masculine pronoun is used in the *Debates of the Senate.*

Senator Flynn: I spoke in French.

Senator Frith: Then the problem is with the translation, when it says that, according to the present member, "his" constituents are very unhappy about the change.

Senator Flynn: I spoke in French.

Senator Frith: It would be "sa".

I believe we should support this bill. The only reservation I have is the one raised by Senator Molgat. If Senator Flynn can assure us on that point, I think we should pass the bill without referring it to committee.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, I want to thank Senator Frith for his comments. It would, of course, be a very serious, mistake to overlook the fact that the member is a woman.

According to the information I obtained in answer to Senator Molgat's question, no representations were made at that particular stage, and I am referring to when the Electoral Boundaries Commission wrote its report, because at the time, no one was terribly concerned about the fact that they were going to change the name from Gatineau to Chapleau.

However, subsequent reactions from constituents in her riding made Mrs. Mailly decide to take the step of tabling a bill to restore the former name, while adding another name, La Lièvre, which designates the northern part of the riding. Constituents in this area felt somewhat left out and there was a request to have them represented in the riding's name.

No formal representations were made, so that the Electoral Boundaries Commission did not have a chance to consider changing the name of Chapleau which had been suggested. Apparently, the name designates a provincial riding located in this particular part of the province.

Senator Frith: So that's the reason.

Senator Flynn: That is probably why the Electoral Boundaries Commission chose the name Chapleau.

My enquiries confirmed, however, what I said yesterday. Mr. Chapleau, as a public figure, had no particular ties with

the riding of Gatineau, and if I remember correctly, Adolphe Chapleau was from the Montreal area.

Nevertheless, as I said yesterday, he was a figure of some reknown in the political history of the province of Quebec.

Senator Frith: I understand he had no connection with this particular part of the province.

Senator Flynn: That is correct. But there was a club north of Montreal called the Chapleau Club, which was a very nice hunting and fishing establishment. Maybe the club's territory was near this particular region and Mr. Chapleau went hunting or fishing in the area.

I seem to have upset the Speaker *pro tempore* by referring to the opportunities afforded Mr. Chapleau to go to this club, but the Speaker *pro tempore* can hardly complain, since Charlevoix is splendid hunting and fishing territory as well!

Motion agreed to and bill read second time.

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

THIRD READING

Hon. Jacques Flynn: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move that the bill be read the third time now.

Tomorrow morning we may have quite a few items on the agenda and at least this item will have been dealt with.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, although normally we would want to consider a bill in a standing committee or Committee of the Whole, in this instance there is no minister responsible for this bill. We can say we have had a mini-Committee of the Whole, with explanations provided by Senator Flynn.

I therefore second the motion of Senator Flynn.

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

Some Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

• (1610)

[*English*]

LOBBYISTS REGISTRATION BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Doyle, seconded by the Honourable Senator Barootes, for the second reading of the Bill C-82, An Act respecting the registration of lobbyists.—(*Honourable Senator Olson, P.C.*).

Hon. H.A. Olson: Honourable senators, we have looked at Bill C-82 and recognized that it is designed to give a certain amount of transparency to lobbying activities that are taking place on Parliament Hill, and we agree with that. There is no question that a number of associations, partnerships, corporations, or whatever, have grown up on Parliament Hill and around Ottawa which do lobbying, or what we refer to as "lobbying". It has been suspected that these activities have been taking place in back rooms; now it has been decided that those lobbyists should be registered.

To get to the next question—that is, whether one supports what Bill C-82 does about achieving that objective—I am not sure whether we agree with the bill or not.

At the outset—this will be a brief speech—we will not object to giving the bill second reading and referring it to committee, where we can obtain some explanations.

I have read the bill more than once, and I have read the explanations that were given in the other place at several of the stages, and, quite frankly, I am concerned with the intent of the bill, however honest it might be, which is to achieve a level of transparency yet, at the same time, not interfere with the legitimate right of citizens to advise or try to persuade members of the legislative bodies of both houses of Parliament of their opinions and their views on certain subjects. The bill is really not clear in that regard.

In fairness, I can also say that perhaps the government is not quite sure what will be adequate and yet will not interfere with what I have just mentioned.

It is suggested that we set up a registry, in the first place, and then find out what the regulations will be afterwards. Senator Doyle, who introduced the bill yesterday, said that there are to be no regulations—that this is simply a registry. "Tier I" type lobbyists will register for that purpose and "Tier II" lobbyists will register for another purpose. In the case of "Tier II" lobbyists, they will not be asked for any more information than is contained on a business card—that is, one's name, address and telephone number.

Perhaps that is true, but I think that the penalties provided here—for example, a $25,000 fine for someone who fails to comply with this bill—are such that we need to be somewhat careful about those we are requiring to be registered.

I suppose lawyers are the ones in the most peculiar position.

Senator Barootes: That's fine; make it difficult for them.

Senator Olson: Senator Barootes says, "That's fine; make it difficult for them." But there are many things I do not agree with that lawyers sometimes do—

Senator Frith: What?

Senator Olson: Part of their business is to make representations on behalf of someone else. It happens in court and it happens on Parliament Hill. I think we need to be reasonably careful that at least they know what is expected of them if they are going to do this form of advocacy, and that is not clear in this bill.

• (1620)

If I am to keep my promise to myself and several others to make this speech brief, perhaps I should advise honourable senators that we are prepared to let this bill go to the Standing Senate Committee on Legal and Constitutional Affairs, where we can hear more detailed explanations of these points. Hon-

ourable senators, I do not think that I can honestly and fairly say that I am in favour of the bill; I simply do not know. I have to say this, though: I am not in favour of setting up a restriction under which citizens cannot legitimately make representations with respect to matters of concern to them in the public domain. That, in my view, would be a disservice to them.

In any event, I am prepared to let the bill go to committee. I hope that somebody in the government—the minister, his parliamentary secretary or a member of the bureaucracy within the Department of Consumer and Corporate Affairs, and I think it is the Deputy Registrar General who will administer this act—has at least some idea of how the government intends to define certain kinds of activity and who is expected to comply with what is in this bill. Or does this simply constitute an attempt to get started on a registry, and we will move on from there to whatever seems to be the appropriate improvements?

Hon. Finlay MacDonald: Honourable senators, I should like to address a question to whoever may be able to answer it. If a member of this chamber were to declare himself or herself and were therefore to go into the registry, would that person automatically "come a cropper" under the Senate and House of Commons Act, which is far more precise?

Senator Olson: If the honourable senator is addressing that question to me, I want to make it clear right now that I am no expert on this bill. I believe, however, that some exemptions are made in it and that those exemptions include senators. As to the exact definition, description or anticipated circumstances Senator MacDonald had in mind when he asked the question, however, I am not sure.

Senator Frith: That is a good question for the committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Doody, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

CANADA GRAIN ACT

BILL TO AMEND—SECOND READING

Hon. Mira Spivak moved the second reading of Bill C-112, to amend the Canada Grain Act and other acts in consequence thereof.

She said: Honourable senators, it is a pleasure to speak today on the amendments to the Canada Grain Act.

The federal government has been working with producers and other representatives of the grains and oilseeds industry to make federal programs and agencies more efficient. The amendments to the Canada Grain Act that we are discussing today fall into this category and are designed to serve the Canadian grain producer. The proposed amendments were made in consultation with, and have the support of, the industry.

Honourable senators, this is the first time in 17 years that any substantial changes have been made to this act. First passed in 1912, the Canada Grain Act has not undergone major revision since 1971. The proposed amendments will standardize and clarify the terminology used in the act and will update the legislation to reflect industry developments. In addition, the amendments will provide clarification for the industry concerning the Canadian Grain Commission's regulatory role and authority.

Honourable senators, the Canada Grain Act provides the framework for the Canadian Grain Commission's operation. The commission maintains Canada's high quality standards and regulates grain handling. The amendments to the act, as I have said, are generally to provide more efficient and effective administration of this legislation and to update its terminology. The amendments also clarify the protection offered to persons dealing with licensees.

By way of background, the amendments change some definitions used in the act. Since the act was last amended in 1971 the structure and practices of the industry have changed so that many terms that are now used are out of date and many current terms are not included. This type of amendment eliminates confusion in the industry about the provisions of the act and the authority of the commission.

The amendments give the commission the authority to limit the length of time producers may leave their grain unpriced and the length of time licensed grain elevators and grain dealers may delay payment to producers who have delivered grain to them. The amendments specify which documents issued, according to the act, will be protected by security posted by licensees and also specify that only grain producers are protected, and that for only one year.

Setting time limits—for example, 90 days—for both the pricing of and the payment for grain would reduce financial risks for all parties concerned and would reduce the amount of security that licensees would need to provide. It would also increase the efficiency of the elevator system by limiting the amount of grain in long-term storage. Limiting the length of time that documents are covered by security to one year would also reduce the level of security required by licensees.

In substance, and in a little more detail, the amendments to the Canada Grain Act provide, first, for clarification and standardization of the terminology used in the act. The term "minister", for example, is defined not just as the Minister of Agriculture but as any other minister. Terms like "cash purchase ticket" have been redefined, the word "chemist" has been changed to "scientist", and so on.

The amendments to the Canada Grain Act also provide for the authority to establish by regulation, subject to Governor in Council approval, time limits for the deferral of pricing, the storage of grain in elevators and the payments for grain by licensed elevators and grain dealers; the limitation of protection of securities posted with the commission to actual pro-

ducers holding cash purchase tickets, elevator receipts or grain receipts to a period of one year from the date of delivery of the grain, and the clarification of which documents are to be issued by licensed elevators and grain dealers. The documents will be: cash purchase tickets, elevator receipts, grain receipts and so on.

The amendments also provide for the consolidation of authority to establish and change grades by regulation of the commission, subject to Governor in Council approval. Now certain classes of grain, spring wheat and durum wheat and grades are in the act; others—for example, canola—are in the regulations.

The amendments also provide for the flexibility to package and certify specific qualities of grain as required to serve particular markets, as, for example, when customers wish to purchase on specification rather than on established grades. Some buyers may object to certain grade names, such as "feed wheat", on grain to be used for human consumption. Certain countries request mixtures, for example, such as canola and mustard.

The amendments also provide for specific terms of office for commissioners and assistant commissioners. The term of office for a commissioner, for example, will be up to seven years. The bill also provides for staggered terminations of appointment, which will provide continuity to the commission's leadership. It establishes a term of office of five years for assistant commissioners. Since they have less responsibility, a five-year term is suitable.

The amendments provide for raising penalties for contraventions of the act to three times the current levels. This follows changes to other acts administered by Agriculture Canada. The increases are designed to reflect inflation over the years. These penalties are maximums, with no minimums specified, and they provide substantial flexibility.

● (1630)

The Canadian Grain Commission has helped Canada maintain a solid reputation as a reliable supplier of high quality grain and grain products. The amendments discussed today should make it easier for the commission to operate, which will be good news for everyone involved in the industry.

Those are my brief remarks regarding the amendments to this act.

Hon. Hazen Argue: Honourable senators, we welcome the explanation that Senator Spivak has provided. The Canada Grain Act has for many years governed grain standards, the operation in many ways of our country elevator system, the setting of standards for export grain and so on. This act has historically been placed on the statute books for the protection of the producer. From time to time it is necessary to bring the statute up to date and provide certain necessary amendments.

However, there is a feeling—and it has been clearly expressed—that one of the underlying purposes of this legislation is to make it possible for the government to appoint a current member of Parliament to the position of chairman of the board. We know that provision is being made to make the position more secure, namely, to make it a seven-year appointment.

However, I do welcome the amendments to this act. Over the years appointments to the Canadian Wheat Board have not been of a political nature. That, of course, is not true with regard to the Canadian Wheat Board Act. Some years ago two commissioners, who I think were quite able, were dismissed. One can only feel that that was done for political reasons.

I should like to attest to the effectiveness of this legislation—the Canada Grain Act as it now stands—and I am sure that the amendment will bring about improvements. Some years ago I had the privilege to travel to China. I was at one of their main ports and, with a Chinese official in the grain business, was able to witness the unloading of a ship named *Amundsen D*, which, we were told, was the second-largest grain boat in the world at the time. With their technology at that time, they used a large scoop to scoop the grain from the boat and move it over and dump it into an open railway car. I asked the Chinese official whose grain—it was wheat—was being unloaded. He said that it was Canadian wheat. I said, "How can you tell?" He said, "Not much dust." He told us if the boat had been from the United States we would not have been able to see the unloading process, because they do not clean their grain for export. They provide the grain, and the sample is taken at a later date for pricing and commercial transactions. The process that Canada uses has stood the Canadian grain industry and the producers in good stead for many years.

I am sure there are technical improvements to the current legislation before us, and we would welcome a chance to discuss them in the Agriculture Committee.

Hon. H.A. Olson: Honourable senators, as Senator Spivak has said, the last time major amendments were made to the Canada Grain Act was in 1971. I was the minister responsible for those amendments. I hope the present amendments do not cause as much difficulty as the 1971 amendments did. I can tell Senator Spivak and other senators that on three occasions the committee sat well into the night—until two o'clock and three o'clock in the morning. In fact, on one occasion the committee sat until 7.30 a.m. There were a couple of Conservative members who caused that drawn-out committee meeting.

Senator Flynn: That was unusual.

Senator Olson: That was not unusual; it happened all the time. If anyone here believes that some Conservative members are not capable of so-called dilly-dallying, they should have a lesson in history. As a matter of fact, the last time the Canada Grain Act was amended we had to call Parliament back between Christmas Day and New Year's Day. So, if you think that sitting a few days in July is a great sacrifice, think about what happened in that case.

That bill dealt with major amendments to the Canada Grain Act. There was also another bill at that time—a marketing bill—that the Conservatives were opposed to. Now they are running all over Canada defending those bills and the market-

ing boards that came out of those bills. Things change over time.

Senator Doody: Some things never change.

Senator Olson: The more some things change the more they stay the same. Having given that history, I do not want to get into the technical details, because I am sure these amendments need to be made and I accept Senator Spivak's explanation as to why these amendments need to be made. However, I do not accept her conclusion with respect to changing the tenure. I think the government will regret changing it from the present wording, which reads "at pleasure", to a fixed term. I do not believe any government should have to contend with appointed officials who are not carrying out their duties. If the term of office is seven years and you try to dismiss them before the end of the term, it becomes a very messy business.

Senator MacDonald: Impossible!

Senator Olson: Nearly impossible. I could name a couple of people, but I do not think it would serve any useful purpose to drag those names into the debate. I can see there are some senators here who know their names. Some newspapers, including *The Co-operator*, have reported that the government wants to provide security of office for a present member of Parliament. If you have confidence that you will be elected again, you do not need to change it from the present wording, "at pleasure". I guess you have lost confidence in your ability to lead the government three or four years down the road, at least that it is how it appears, and that is why you wish to have an irrevocable seven-year contract arrangement.

I have seen a situation in which a government appointed people who did not do their job. It was an impossible situation. There was so-called "good behaviour" tenure, which was, as Senator MacDonald said, nearly impossible to change. If you change the act to a term of seven years, I am sure this government and future governments will regret it.

• (1640)

The Hon. the Speaker *pro tempore:* Honourable senators I must inform the Senate that if Senator Spivak speaks now her speech will have the effect of closing the debate on second reading of this bill.

Senator Spivak: With regard to the comments of Senator Argue and Senator Olson, I have some information here which I want to share with them gratuitously.

First, the appointments are up to seven years and they provide for staggered termination of appointments. That is, you could appoint one individual for one or two years, another individual for five years and another individual for seven years.

Senator Nurgitz: How do you like it so far?

Senator Olson: Okay. Can I ask you a question?

Senator Spivak: That is my understanding. Don't push me any further!

An Hon. Senator: Push him!

Senator Frith: No special privileges! Push away! No immunity!

Senator Spivak: I saw him getting up, and I wanted to continue.

Senator Frith: No immunities for "pushees".

Senator Spivak: Right! I want to share with you some information, which I am sure most of you know, without getting into a whole debate on whether "tenure" or "at pleasure" is better, on a number of agencies with tenure appointments. I will read them for your information.

The CBC is five years; the National Transportation Agency is five years; the CRTC is seven years; the National Energy Board is seven years; the Bank of Canada is seven years; the Veterans Appeal Board is seven years; the National Parole Board is ten years; and the Canada Pension Commission is ten years.

Senator Petten: That is what I was waiting for!

Senator Frith: Please do not get to the Senate!

Senator Spivak: And then there is the Senate . . . !

Of course, all of these tenured terms were initiated long before my coming here and long before the coming of this government to office.

Senator Olson: I do not want to be pushy, honourable senators, but can I ask one question?

Senator Spivak: You can ask.

Senator Olson: Well, I will try, anyway.

You said that it is not for seven years; it is up to seven years.

Senator Spivak: That is my understanding.

Senator Olson: But if you appoint someone for seven years and after three years you find out that you do not like him and do not want him, what do you do then?

Senator Doody: Sue him!

Senator Barootes: Make him a deputy minister!

Senator Spivak: Perhaps we could get the answers to some of those questions at third reading or in committee.

Hon. Gildas L. Molgat: Honourable senators, would Senator Spivak permit a question?

Senator Spivak: Yes.

Senator Molgat: Could she indicate to us whether there have been any difficulties at the Canadian Grain Commission with the present wording? Is the reason for the change that there have been problems?

Senator Spivak: Senator Molgat, I will endeavour to get the answer to that question as well before third reading.

Senator Frith: Or in committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Spivak, bill referred to the Standing Senate Committee on Agriculture and Forestry.

WESTERN GRAIN STABILIZATION ACT

BILL TO AMEND—SECOND READING

Hon. Efstathios William Barootes moved the second reading of Bill C-132, to amend the Western Grain Stabilization Act.

He said: Honourable senators, it is a pleasure to be able to speak in this chamber today on the amendments to the Western Grain Stabilization Act.

Over the last few years Canadian farmers have been hit hard by forces beyond their control—first by low grain prices and now, as you know, by a severe drought. In both situations the federal government has responded quickly with programs to cushion the producers from the impact of these two anomalies.

Right now the drought is one of our most pressing concerns. The government is working with provincial governments and producer groups to help farmers deal with the severe dry conditions. A federal-provincial coordinating committee on drought was established this spring.

The federal government has increased the PFRA budget by $12 million to help farmers and communities find new water supplies. Livestock producers will receive assistance worth up to $153 million through a recently announced federal-provincial program.

The federal government has put programs in place to help farmers meet short-term needs during periods of bad weather and low prices, but it also has some long-term plans for the agricultural sector. The Western Grain Stabilization Act amendments are part of Canada's overall plan to strengthen the future of Canadian agriculture.

The Prime Minister announced changes to the Western Grain Stabilization Act last December as part of a series of comprehensive agricultural initiatives, and they were brought to this house. These initiatives make up the largest agricultural assistance package in the history of Canada.

Some of the initiatives announced by the Prime Minister will help producers meet their most pressing short-term needs. The extension of the Special Canadian Grains Program has put $1.1 billion directly in the hands of Canadian farmers. The extension of the Farm Fuel Tax Rebate Program will save our producers $200 million a year over the next two years. Funding for farm debt review boards will continue. These boards have already helped some 2,000 producers stay on their land. Additional funding for the Farm Credit Corporation will help that corporation continue in its role as an important lending institution for our farmers.

On the longer-term needs, the federal government is also putting programs in place to help our agricultural industry remain strong and stable in the future. Over $100 million will be spent on joint ventures with the provinces. Some of the areas involved include soil conservation projects, establishing a national agricultural biotechnology centre and providing farm management training and research on ethanol blended gasolines.

The federal government is also doing an overall review of farm safety net programs. This summer ministers are meeting with producer groups to discuss further initiatives in income stabilization for producers.

This is where the Western Grain Stabilization Act comes into the picture. The WGSA is the main source of income support for grain farmers facing fluctuating world prices.

World grain prices took a severe nosedive in the last few years because of a subsidy battle in the international marketplace. Prices are on their way up again, but farmers are still recovering from a long period of low prices. WGSA was created to cushion farmers from such a drop in prices, and the program has done exactly that.

Close to $1.4 billion went out to about 135,000 farmers on the Western Grain Stabilization Program in the 1986-87 crop year.

Senator Olson: One hundred thirty-five thousand what?

• (1650)

Senator Barootes: One hundred and thirty-five thousand farmers benefited. This amount was paid out in the calendar year 1987.

However, approximately 15 per cent of western farmers are not enrolled in the program. Amendments to the act are aimed at encouraging these producers to join in the following ways: The 10 per cent penalty for rejoining will be removed; the deadline for participation in the 1987-88 crop year will be extended so that producers can rejoin up to 60 days after the proclamation of this legislation, which we think could probably bring them to October of this year. In other words, they can rejoin up until then.

Additionally, more crops will be covered under this program: Triticale, which is a rye/wheat hybrid, mixed grain, sunflower seed, safflower seed, buckwheat, peas, lentils, fava beans and canary seed. Every grain that is mentioned in the Canada Grain Act is included in the WGSA, except corn, soybeans and edible beans. Those products, as you know, fall under the Agricultural Stabilization Act.

Producers who rejoin the program and conditional participants will receive higher payments under the amended program than under the present program. For example, a rejoining producer with maximum sales will receive a payment equal to 70 per cent of the maximum individual payment. Previously, producers who rejoined received only 30 per cent of the full payment.

Let me give you an example of that. Based on the interim payment made in May, a full participant with $60,000 in eligible sales would receive $14,500. A rejoining producer with the same amount of eligible sales would receive about $10,000. Without the program changes that are being made, and the amendments to this program under this bill, the re-enrolling

producer would have received approximately $4,350, which is less than half of what he will now be entitled to.

The Producer Advisory Committee to the Western Grain Stabilization Program will be expanded under this bill. Right now this committee consists of five members, including the chairman. At present two are from Alberta, two are from Saskatchewan and one is from Manitoba. The amendments will increase the committee membership to eight, including the chairman. This will allow one more member to be added for each of the three prairie provinces and will result in slightly better regional representation; it will also make it easier to obtain a quorum.

Finally, measures are being taken to eliminate the deficit in the Western Grain Stabilization Fund. Some you may recall that last winter in this chamber I reported that the fund had gone $1.5 billion into the red. Record payments since then have left the fund with a deficit of $2.2 billion. This includes $695 million in interim stabilization payments distributed to participants in May of this year. This program that the government has now undertaken will save millions of dollars for farmers by reducing interest charges against the stabilization fund, because there will be a $750 million write-down of that accumulated debt. That is exactly what was promised last December, and it will be carried out.

Honourable senators, let us speak of that deficit. Sooner or later the federal government will have to deal with the deficit in the fund. Dealing with a deficit sooner rather than later is, I believe, smart fiscal management. The WGSA amendments will eliminate the deficit in two ways: through a partial debt write-down of that $750 million, and by an increase in the federal and producer levy contributions. That $750 million deficit write-down is very welcome. Without that write-down, which is a federal contribution and reduces our deficit considerably, the increase necessary in producer levies to reduce the deficit would be unreasonably high, and perhaps prohibitive.

Honourable senators, let us speak of levy increases. Levy contributions for crops covered under the program will increase. This crop year and the next producer levy contributions on grain sold will increase from 1 per cent to 4 per cent. The government's share of levy contributions will increase to 6 per cent from 3 per cent. Therefore, honourable senators, both producer and federal levies will increase by exactly the same percentage.

The federal government must deal with this deficit in order to keep the program stable and keep it in place. The federal government is responsible for maintaining the WGSA and takes the commitment very seriously. The program is part of the federal government's long-term approach to helping farmers deal with erratic farm income. Most farmers would likely agree that we cannot take an ad hoc approach to dealing with fluctuating farm incomes. Producers need a long-term solution such as the WGSA to ensure that their income remains stable.

Honourable senators, as you know, grain prices are now on their way up. However, in recent years they have dropped so drastically that even record payments through traditional support programs like the WGSA have not been enough to cushion producers from very low returns.

The federal government responded with a program to help farmers survive the drastic drop in prices. The Special Canadian Grains Program was put in place two years ago and complements the WGSA. It does not replace it.

The Western Grain Stabilization Act has proven its benefits as a program producers can rely on when prices drop below normal levels. Amendments to the program will broaden the farm safety net by encouraging more producers to join. These amendments fit in with the federal government's long-term goal of strengthening the position of our grain farmers.

Honourable senators, I strongly recommend expeditious passage of this important bill in support of the western agricultural industry.

Hon. Hazen Argue: Honourable senators, Senator Barootes prefaced his remarks by going over the substantial number of programs that are in place today. It is perfectly true that very substantial sums of money have been paid out for the benefit of western grain and livestock producers in this time of great need. However, all of those programs, taken together, have not been able to arrest the tremendous exodus of farmers from their farms. One reads reports in the *Globe and Mail* of the very large numbers that have had to leave their farms. Thus it follows that large quantities of land today are under the ownership of the Farm Credit Corporation, and it is a problem for that corporation to deal with, and a problem for the future.

However, honourable senators, this is Canada, and we would expect that the farms should be in the hands of the farmers, and not end in the hands of a federal corporation. So there is still, in my judgment, a crying need for protection against foreclosure on farmers who, through no fault of their own, face a very high burden of interest rates that they cannot meet, with grain prices where they are today.

• (1700)

This act has been on the statute books for a long time. It was brought in many years ago by the Honourable Otto Lang, assisted by his then parliamentary secretary, Mr. Ralph Goodale. The plan has been of tremendous benefit to farmers out west, and it has paid out huge sums of money at times when prices were low and needs were great. About 75 per cent of farmers are in the plan and about 25 per cent remain outside it.

I can remember when the plan was being discussed and when it came time to join the plan. The National Farmers Union said at the time that it was a poor deal, that it should be a general insurance plan and that it was not good enough to have specific insurance. There were a number of free enterprise types with large land holdings who said, "I don't need to get into this program. I can look after things for myself." So about 25 per cent of the farmers remained outside the program. When asked, I would say to my neighbours, "Don't be misled. Under the plan the farmer puts in $1 and the government puts in $2. That's not a bad situation. Take a chance. If you never get a pay-out from the program, don't blame

anybody. After all, if your house never burns down and you do not have to collect insurance, you don't blame the insurance company. So get into it." I think I gave good, sound advice.

The government likes to take credit for the huge sums that are paid out. It is correct that the current government amended the act to allow for prepayment by order in council. When I was the minister in charge of administering the act, I felt that it was better to bring in amendments to the act to make these payments rather than giving all the power to the Governor in Council. However, I have no complaint whatever with the method being used at this time.

On June 28, 1984, I had the privilege and responsibility of recommending certain amendments to the act, and one of the first was with respect to the addition of a second pay-out triggering mechanism. According to the amendment, the net cash flow per tonne of eligible earnings would be supported at the level of the previous five years. This pay-out mechanism was intended to make the program more sensitive to price and cost variations during periods of increased marketing. With regard to the second amendment, receipts were to be based on the crop year for pay-out purposes to allow the program to respond more quickly by allowing stabilization payments to be made three or four months after the end of the crop year, rather than after ten months, as was the case with the calendar year procedure. These major amendments have resulted in massive amounts of money being triggered for payment. Without those amendments back in 1984, these very large sums of money would not have been triggered. Money would have been triggered, but not in such large sums.

Another thing I had to deal with at that time was a demand by many producers to get out of the program. As a result, I recommended that the date for which farmers could get out of the plan be postponed for more than a year. It was my expectation that within that one-year period payments would be made and the demand by farmers to be removed from the act would not be great. I think experience has shown that to be the case, and the amendments to which Senator Barootes referred to encourage farmers who are not under the plan to get under the plan is there for a very good and substantial reason. The more producers who are under the act, the better.

Honourable senators, I want to criticize in a major way the change in the proportion contributed by the producers as compared to that contributed by the government. Initially, the act stated that the contribution would be 2 per cent from producers and 4 per cent from government. Because of certain calculations built into the act, when there were surpluses the farmer's contribution went down to 1 per cent and the federal contribution was also reduced. I thought it would have been better if contributions had not gone down at all. This legislation will increase the farmer's contribution by four times and the government's contribution by two times. So, instead of a ratio of 2 per cent to 4 per cent, we will have a ratio of 4 per cent from the farmers to 6 per cent from the government. Therefore, the government is withdrawing in a proportionate way—not in an absolute way but in a proportionate way—its share of contributions to the fund. I think that is a mistake. The ratio basis established at the inception of the fund was good then, and it is good today. If the price of grain goes up and stays up the ratio of 2 per cent to 4 per cent will be sufficient to cover future payments. Senator Barootes has said that the price of grain has been going up, and that is correct. However, in the past few days the price of grain has been going down. Every time there is a shower in the United States, or even the prospect of rain, prices go down.

[Senator Argue.]

Senator Barootes: Volumes go down, too.

Senator Argue: That is right. Their volume goes down, our volume goes down and the price goes down. The Wheat Board asking price is very encouraging and the increase in the initial price is encouraging. However, even though prices are going up, they are still low, and I feel that the 4 per cent burden on producers is too high in relation to the government's contribution.

It is fine for Senator Barootes to outline the large sums of money that have been provided and are being provided from the federal treasury, but what the federal government is doing here is withdrawing its contribution and increasing producer contributions by a relative amount. That is not wise. Certainly, it is not wise from the standpoint of the producer. I think the government should forget about trying to pay off the deficit. The deficit is there because the act worked. A situation arose that required money to be paid out. That money was paid out, resulting in a deficit. In my judgment, if there were a change in grain prices, the 2 per cent to 4 per cent ratio would correct the situation without these increases. Apart from my complaint about this levy, I am glad to support this legislation and to see it referred to the Agriculture and Forestry Committee.

Hon. H.A. Olson: Honourable senators, I want to make some comments similar to those made by Senator Argue, but from a slightly different vantage point. When the Western Grain Stabilization Act was brought into being, it was designed to be actuarially sound based on a 2 per cent contribution from the producer and a 4 per cent contribution from the government. There was, I think, good reason to believe—good prognosticating—that it was sound, until we came to a situation where the international market just simply collapsed. It went down for all the reasons that have been stated. There was a subsidy war between Europe and the United States and so on. This insurance program was never intended to be able to finance itself under those conditions.

• (1710)

The government, and I think quite properly, used the Western Grain Stabilization Act and the administration through the Canadian Wheat Board to distribute some significant amounts of money under this program. They were obliged to do so in any event, but they used this, and I am not complaining about it.

There was a great surplus in that fund—in the area of $1.4 billion—but by the time several years of drought and depressed prices had passed that surplus had turned into a deficit of about the same amount. That deficit was around $1.4 billion or $1.5 billion.

I think the government should have been quite happy, however, that there was $1.4 billion in a fund to deal with that situation, and happy also with the fact that the administration, the formula and the criteria as to who would be paid were all set out. I do not think the government should now complain that, somehow, they have to levy a new set of fees which will somehow make it actuarially sound in a period when prices in international trading are what we would call normal. However, this 100 per cent from 2 per cent to 4 per cent or, because the levy went down, from 1 per cent to 4 per cent, which is a 400 per cent increase, I think, is quite harsh. So far as I can tell from speaking to western farmers, they are not yet out of the financial squeeze they were put in.

It is clear that there is also provision in this bill for individual contributions from farmers to be changed from $600 to $2,400. That is the amount farmers will be expected to pay into the Western Grain Stabilization Fund. It will be 4 per cent to a maximum of $2,400. I think the government is being harsh by putting in place a set of levies comprising a 400 per cent increase in order to get that money back. When a whole sector has had great difficulty, as has the grain sector during the past four years from both drought and the present international crisis, I do not think the government should say that, somehow, it should be able to recover all that money. I know the government is now putting up $750 million to pay for part of the deficit in the fund, but, even so, I think a 400 per cent increase is premature, until the grain sector does, in fact, recover.

What Senator Barootes has said is, I suppose, partly true. Prices have gone up; but they have also come down. Wheat in the Chicago Board of Trade market went down 21.5 cents yesterday. That is the price that sets the world price from day to day. As a matter of fact, it has come down more than 40 cents from the high it was at of around $4 a bushel. It is now back to $3.57. Even that is better than it was, because a few months ago that price was a dollar less than it is today—in other words, about $2.55 U.S. per bushel.

I do not want to keep honourable senators too long, but I do want to repeat that it is a little premature to have a 400 per cent increase in the levy on farmers. I hope that the government will use its authority from time to time—and I think the Governor in Council has some authority—to be a little less harsh than what is proposed in this bill.

Senator Barootes: Honourable senators—

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

Senator Barootes: I wish to thank my two friends from Alberta and Saskatchewan for their comments, particularly as they have had a very close relationship with this program virtually from its inception. I should also like to pay tribute to the Honourable Otto Lang, who was in power when this program was instituted.

I did, as the Honourable Senator Argue will note, make comments about other programs the government had instituted. That is a little of the author's privilege in giving such a speech. However, I would point out to Senator Argue the effectiveness of these programs. For example, in Saskatchewan alone, where I come from, the special grains programs and others that were provided increased the net farm income per farmer by 82 per cent last year and the year before. In fact, it was 82.5 per cent one year and 81.7 in the other year. This has been helpful, but, in a time of crisis like this, one cannot expect everything to be wiped out by waving a magic wand of government dollars. We are going through a very difficult period.

I should also like to congratulate Senator Argue on those triggering mechanisms he mentioned. Both are included in this bill and both are operative, although they are still somewhat tardy. They do not work perfectly yet, because, while they do the triggering, there is such a latent period before the pay-out that there is some hardship. I would pay tribute to him again for suggesting the May interim payments, which have been so helpful to some of the farmers.

I now turn to the levy of 400 per cent, as Senator Olson put it. In the original program the difference between the levy of the farmer and the contribution of the federal government was always 2 per cent.

Senator Olson: It was 2 per cent to 4 per cent.

Senator Barootes: One was 2 per cent and the government's contribution was 4 per cent. The difference was 2 per cent. It is simple arithmetic and even I can understand it. However, when the stabilization fund grew to a level where the reserve was $1.4 billion, the administration of the day wanted to make big boys of themselves, generous boys of themselves, so they reduced it to 1 per cent for the farmer and 3 per cent for the government, which is, again, a differential of exactly two percentage points. They did not reduce both by half; there was still a 2 per cent differential between the producers' levy and the government's portion.

Senator Olson: That is three to one.

Senator Barootes: When it was raised on this occasion as they depleted the fund, of necessity, the differential was, again, 2 per cent. It is 4 per cent on the levy of the farmer and 6 per cent for the government. The differential has always been 2 per cent. It remains 2 per cent and, despite Senator Olson's Descartian geometry and algebra, it will remain 2 per cent.

I must also point out that an insurance program, which this is, must have reserves. An insurance program is of no value if the company goes belly-up, goes broke, and cannot pay out; there must be some restoration.

Honourable senators, I would mention one other small point. You say that, when the government raised the producers from 1 per cent to 4 per cent and the government from 3 per cent to 6 per cent, that was rather harsh on the farmers and not quite so harsh on the government. But you forget that there was $750 million thrown in as well, which really constitutes virtually a year's interim pay-out. So when you take the $750

million write-down plus the increase in the federal contribution from 3 per cent to 6 per cent, I think it makes up for that very well.

• (1720)

Finally, should the program become an actuarially sound insurance program with healthy returns, then it can be looked at and perhaps the contributions lowered.

So I close the debate in that manner and suggest that perhaps we can dispense with this in another way.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. Efstathios William Barootes: With leave of the Senate, now.

Senator Frith: Nice try!

Senator Argue: No, no!

Senator Barootes: I only made that attempt to see the indignation that was going to come on the face of the Deputy Leader of the Opposition. I thought he was going to give me another lecture, but obviously he is not going to do that.

Senator Frith: Instead of indignation you got a smiling "Nice try!"

Senator Barootes: It was a nice try.

Honourable senators, I move, seconded by the Honourable Senator Doyle, that this bill be referred to the Standing Senate Committee on Agriculture and Forestry.

The Hon. the Acting Speaker: Honourable senators, is it agreed that the bill be referred to the Standing Senate Committee on Agriculture and Forestry?

Hon. Senators: Agreed.

On motion of Senator Barootes, bill referred to the Standing Senate Committee on Agriculture and Forestry.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Marshall, seconded by the Honourable Senator Macdonald (*Cape Breton*), for the second reading of the Bill C-92, An Act to amend the Canadian Wheat Board Act.—(*Honourable Senator Argue, P.C.*).

Hon. Hazen Argue: Honourable senators, we on this side of the house feel that this bill, too, should be referred to the Senate Committee on Agriculture for further consideration. There are a number of provisions in the bill, some of which we can agree with, I am sure, but as far as I am concerned the producer provision is one that should not be there in its present form.

[Senator Barootes.]

The provision of producer cars means that a producer can order a car and, as an incentive to ordering that car, the Governor in Council, in consultation with the Canadian Wheat Board, will be enabled to return a larger sum of money to that producer based on a number of factors.

It has been pointed out by western organizations, including the three prairie pools and the National Farmers Union, that there is a substantial cost involved in using the producer car system. It is a substantial cost, because it means that a single car must be spotted and must be dealt with. We now have high through-put elevators and extended lengths of railway sidings, all designed to take grain out at a rapid pace. The use of producer cars creates an element that brings about, in the judgment of these people and in my own judgment, an increase in the inefficiency of the system. It is costly and it could become, if it is used a great deal, a danger to the current system. Our current grain marketing system has stood us in good stead.

I read with interest the statement made by the minister in charge of the Canadian Wheat Board, the Honourable Mr. Mayer. He pointed out, as did Senator Marshall the other day, that the Canadian Wheat Board, in spite of difficult marketing circumstances, has been able to increase Canada's share in the world market. If this is to be done, and if this is to be continued, and if our grain system is to be efficient, then I think overloading the system with producer cars carries great danger.

The prairie pools would like an opportunity, I am sure, to appear before the Senate Agriculture Committee to put forward their points of view. I hope the Senate Agriculture Committee will hear from the railroads and the grain transportation authority and that the forum of the Senate Agriculture Committee will be available to all those who wish to make a presentation.

In the House of Commons, debate was not particularly lengthy; indeed, it was quite short. The agricultural critic for the Liberal Party, Mr. Maurice Foster, moved an amendment, which was supported by the NDP. The amendment, though quite modest, was turned down. He moved that:

> railway car during the pool period.

which is just a connection to the previous phrase, and added:

> The said sum shall reflect an equitable allocation of the costs incurred by the Board to maintain the country delivery points.

I see a trend developing that makes it more difficult for local country elevators to operate. There is a trend to larger farms, and I think this particular provision is, in the judgment of the prairie pools, something they do not wish to support, and they feel they should be entitled to make a representation to the committee on it. I think that that is reasonable. I know that the chairman of the Senate Committee on Agriculture is prepared to make the committee available so that their points of view may be put forward.

I would certainly support an amendment to clarify the result of this provision for producer cars, and I think we are justified

in having it referred to the Standing Senate Committee on Agriculture and Forestry for further consideration.

I overheard Senator Barootes say—and if I am misquoting him, he will correct me—that one of the main features of this bill is to provide a system whereby the Canadian Wheat Board, with the approval of the Minister of Finance, can go into the bond market in Canada, or in other countries, to borrow money for the purposes of financing the operation of the board, or to invest money, if the board should have that opportunity from time to time.

I think that is a dangerous provision. The commodity market is extremely volatile. Farmers have put together the Canadian Wheat Board system because they, individually, did not want to gamble on the commodity market; they wished the Canadian Wheat Board to do the gambling on behalf of all of them and equalize their returns for the year. I think it is regrettable that the government should make this provision and encourage the Canadian Wheat Board to go into the bond market, which is a volatile market. If the board should borrow outside Canada—and it certainly could—then, of course, the vast change in valuation of foreign currency would come into the whole picture.

• (1730)

I think the system we have in place now, under which the Wheat Board makes a sale that is based on credit guaranteed by the Government of Canada, is a good system. When the Government of Canada provides to the Canadian Wheat Board credit through the banking system at perhaps prime less one quarter of 1 per cent, and when the Wheat Board is able to deal with Canadian institutions like the credit unions when borrowings are required, that is a good system. I do not think it should be modified in this radical way, which will make it possible for the Canadian Wheat Board to enter into the bond market. That, in itself, is a gamble. There is no certainty that the Wheat Board will save money—there is no certainty that it will not lose money.

Honourable senators, some pretty sophisticated investors have lost money on the bond market, depending upon when borrowings were made, the currency in which they were made and the transaction involved.

Honourable senators, I respect the ability of the Canadian Wheat Board to operate its system effectively, but when it gets into the financial bond market I think it is treading on dangerous and unexplored ground.

Hon. Efstathios William Barootes: Honourable senators, I do not greatly disagree with what Senator Argue has said, but I think the matter of the investigation of the producer car, which has to do with clause 8 of this bill, should be considered with information from the organizations concerned.

Other senators having spoken about the producer car, I should like to say a word or two about financing. My information is that originally the borrowings or other financial matters of the Wheat Board were handled by the five or six major Canadian banks. A few years ago the handling of these matters was extended to credit unions and trust companies, resulting in a modest improvement in the financial status of the Canadian Wheat Board, which also meant a better return to the producer—the farmer, for whom the Wheat Board acts. Now the Canadian Wheat Board is asking for an extension, which would involve investment houses. It may be that some of us distrust everybody in the financial world, but the fact is that, if those investment houses are able to do better financially for the Wheat Board, it will mean more dollars in the farmer's pocket. I do not have that same distrust, because I know that the Wheat Board is made up of people who are conservative in their financial dealings. I wish they were conservative in other ways as well, but, unfortunately, often they are not. Secondly, these financial dealings must be approved by the Minister of Finance, so there is the government check that was requested earlier. Moreover, the Wheat Board sometimes finances in foreign currencies in any event when it enters into dealings with foreign countries. I would not be too worried about their making a bollix of things. I think they will do well for the farmers.

Hon. Martha P. Bielish: Honourable senators, I was to sponsor Bill C-92, and, although I have attended quite regularly since February, the matter was brought up on a day when I was not here. I want to thank Senator Marshall for dealing with Bill C-92 on my behalf at second reading.

Some Hon. Senators: Hear, hear!

Senator Bielish: Senator Hays drew to the attention of the Senate clause 8 of the bill, suggesting that it is a controversial provision. I should like to express my appreciation to Senator Olson for his support of clause 8. I think this bill has been debated sufficiently and at the appropriate time I should like to refer it to the Standing Senate Committee on Agriculture and Forestry.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Bielish, bill referred to the Standing Senate Committee on Agriculture and Forestry.

CANADIAN INTERNATIONAL TRADE TRIBUNAL

ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE

MOTION TO AUTHORIZE BANKING, TRADE AND COMMERCE COMMITTEE TO STUDY SUBJECT MATTER OF BILLS C-110 AND C-121—ORDER WITHDRAWN

On the Order:

Resuming the debate on the motion of the Honourable Senator MacDonald (*Halifax*), seconded by the Honourable Senator Walker, P.C.:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine the

subject-matter of the Bill C-110, An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof, and the subject-matter of the Bill C-121, An Act to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain Acts in consequence thereof, in advance of the said Bills coming before the Senate or any matter relating thereto.—(*Honourable Senator Frith*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator MacDonald has requested that this order be withdrawn from the order paper since both bills are currently before the chamber. It is my understanding that this matter is no longer relevant and that the order ought to be withdrawn.

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

Hon. Senators: Agreed.

Order withdrawn.

FOREIGN AFFAIRS

CONSIDERATION OF ELEVENTH REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator van Roggen, seconded by the Honourable Senator Buckwold, for the adoption of the Eleventh Report of the Standing Senate Committee on Foreign Affairs (Turks and Caicos Islands), presented in the Senate on 2nd December, 1987.—(*Honourable Senator van Roggen*).

Hon. Eymard G. Corbin: Honourable senators, this order stands in the name of Senator van Roggen. I attempted to get in touch with him this afternoon, but he was already on his way back to Vancouver. I do not fault him for that; I am just saying that I could not get in touch with him. This matter has stood in his name for some time—since December of last year, I believe. Before it disappears into the woodwork as a result of an adjournment or the dissolution of Parliament, I want to make a few comments on it. I do not suppose Senator van Roggen would object to my speaking at this time.

With the permission of honourable senators, then, I should like to say that I regret that this matter has not been dealt with in any way, shape or form since December. I am speaking, of course, about the proposition to join with Canada the Turks and Caicos Islands. This proposal is more and more in the public mind. I am not a promoter of the union of Canada and the Turks and Caicos Islands; yet I am one of those Canadians and parliamentarians who would like more information about it. What I really want to understand is the content of the report and the way in which it was drafted.

Senator van Roggen's committee held its meeting on this question *in camera*. For some reason the public was not allowed an opportunity to make presentations there. It is my understanding that someone from the British High Commission was allowed to make a private statement and to outline to senators reasons or arguments as to why Canada should not touch this proposition at this time, even though Canada is supplying funds to the Turks and Caicos Islands to build an air strip. I must say I find that rather strange, because the Turks and Caicos Islands are a British possession or protectorate, or call it what you want. Yet we are supplying funds to build an airstrip on the Turks and Caicos Islands when, in my opinion, the British government ought to be doing that if it claims possession or exclusive interest in the Turks and Caicos Islands.

• (1740)

However, I do object to the fact that the committee sat *in camera* on a question which, in my opinion, should have been fully vented in a public way. I have read an *in camera* transcript of the proceedings of that committee. I assume it is normal practice for notes to be taken for the benefit of members of the committee, especially the chairman, but, because it was *in camera*, the transcript cannot be made public, nor can I quote directly or indirectly from it.

Suffice it to say that what was said in the committee should have been said publicly. The press thinks we hold too many *in camera* meetings in this place. Sometimes they have an argument for that position and sometimes they do not. There are moments when members of the committee must close the doors and deliberate among themselves as to what they must do with evidence gathered on a certain item—legislation or whatever. This matter was not at that stage; it was at the stage where the meeting should have been public.

On the basis of what I read in the transcript of the *in camera* hearing of that committee, I feel that the report would perhaps have been different from the one tabled in this house. Let me put it another way. I believe if that committee had held public meetings, certain utterances and comments of an elitist nature would not have been made in the committee. This whole matter of the way the committee handled the Turks and Caicos Islands issue sounded to me like a cover-up job. Some members of the committee had determined in their own minds that this proposal would be quashed and would not go anywhere. A report was written to reflect that. Yet there were comments made in the committee which I feel ought to have been part of that report, if they were worthwhile stating at all.

Honourable senators, I do not believe we have reached the end of the discussion on the Turks and Caicos Islands proposal. It was discussed again very recently in a major Canadian magazine. There seems to be increasing support for the idea, for all sorts of reasons, but a lot of those reasons have not been put before us.

Over the years we have heard good speeches from members of the Senate and the other place. The next time the item comes before us we ought to make sure the committee holds full-fledged public hearings in order to give an opportunity to those who wish to make a point, either for or against the project of a union with the Turks and Caicos Islands. I think that is what was wrong with the process this time around. I do not feel comfortable with the report. I am not saying that I

cannot live with some of the comments and the recommendations in the report. I am simply stating that we have not heard all of the story, and we are entitled to hear all of it. I hope the next time that will be done.

On motion of Senator Petten, for Senator van Roggen, debate adjourned.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I believe there is general agreement that all remaining orders, inquiries and motions stand.

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

Hon. Senators: Agreed.

Hon. Daniel A. Lang: Honourable senators, I was out of the chamber when Order No. 13 was called. It presently stands in my name, but, because of the length of time it is taking me to do research on the matter, I would be prepared to allow anyone else to speak to it.

Not apropos of that particular item, I should like to say that the debates I have listened to this afternoon with regard to the Wheat Board and the problem of grain production in the west are of intense interest to the three million people I speak for in Toronto.

Hon. Jacques Flynn: If Senator Lang has spoken to this item, the question should be put.

Hon. Royce Frith (Deputy Leader of the Opposition): No, he said he would be prepared to yield to anyone else.

Senator Flynn: I thought he said he was not going to speak on this item.

Senator Frith: He said that because of the research required he will not speak to it soon, but if anyone else wants to speak to it he may.

The Senate adjourned until tomorrow at 10 a.m.

APPENDIX

(*See p. 4128*)

THE ESTIMATES, 1988-89

REPORT OF STANDING SENATE COMMITTEE
ON NATIONAL FINANCE

WEDNESDAY, July 27, 1988

The Standing Senate Committee on National Finance has the honour to present its

TWENTY-SIXTH REPORT

Your Committee, to which the expenditures proposed by the Estimates for the fiscal year ending 31st March, 1989 were referred, examined the said Estimates and presents, in obedience to the Order of Reference of 1st March 1988, its second interim report as follows:

On February 26, 1986 the Minister of Finance announced that $1.08 billion over a four-year period was being added to the budgets of the three research granting councils, the Medical Research Council (MRC), the Natural Sciences and Engineering Research Council (NSERC), and the Social Sciences Humanities Research Council (SSHRC). Of this, $315.9 million was to be allocated to increase their annual budgets, an additional $369 milion was expected from the private sector, and the remaining $369 million to come from federal matching of private sector contributions. (The government has subsequently increased these amounts to $380.2 million.) This amount was to be used under the newly created Matching Grants Program. The five-year expenditure plan for the three councils covering the period 1986-87 to 1990-91 is shown in the table in the annex.

The government's intention was to raise the base-level budgets in 1986-87 for the three councils from $480.4 million to $562 million. For each of the subsequent four years, the budgets were to be frozen at $537.7 million. Any increase in each of the councils' budget was to come from the Matching Grants Program. Subsequently, in May 1988, the government altered that policy and announced that the base budgets of the three councils would increase annually over the next five years.

In a federal document entitled STRENGTHENING THE PRIVATE SECTOR/UNIVERSITY RESEARCH PARTNERSHIP: THE MATCHING POLICY RULES, the government established three objectives for the Matching Grants program:

> to increase, in partnership with the private sector, the overall level of university-based research, research training, and directly related activities,
>
> to increase the overall level of private sector-university collaboration in terms of both the mutually desired direction of university research and the transfer of the results of that research for application by the private sector,
>
> to encourage joint research activities that capitalize on the strengths and interests of the private sector and the universities for the economic and social benefit of Canadians. (page 6)

The Committee's intention in reviewing these estimates was to examine and report on the effectiveness of this program. The Committee was also aware that this current review could highlight possible elements that should be considered when the government undertakes a review of this program in 1989-90.

The Committee heard from the following witnesses:

April 21, 1988:

Ministry of State, Science and Technology Canada:
Mr. Al Cobb; Director General, University and Research Councils.
Mr. J.A.D. Holbrook, Manager, Science and Technology Data Intelligence Branch.

Natural Sciences and Engineering Research Council:
Dr. A. May, President.

May 5,1988:

Social Sciences and Humanities Research Council:
Mr. Ralph Heintzman, Director General, Programs;
Mr. Gaston Bouliane, Treasurer and General Director, Administration Branch;
Mr. Pierre Chartrand, Acting Director, Financial and Administrative Services;
Mr. Alan Fox, Senior Policy Analyst.

May 12,1988:

Medical Research Council of Canada:
Dr. Pierre Bois, President;
Dr. Lewis Slotin, Director, Programs Branch.

Alcan International Ltd.:
Dr. Hugh Wynne-Edwards, Vice-President, Research and Development.

May 19,1988:

University of Toronto:
Professor David Nowlan, Vice-President, Research;
Ms. Carole Gillin, Director, Office of Research Administration.

All the witnesses provided excellent testimonies and the Committee wishes to thank them for their efforts.

Witnesses from the three research granting councils explained that the government matches eligible private sector contributions to university research by providing this money directly to the general operating budgets of the councils. While the councils must use the government matching grant to support the direct costs of university research, there is no condition that it be used specifically to support university-industry related research. There is also no condition that any part of the government portion be used to reward the university or individual researcher for their efforts in generating the private sector support. There are however some differences in the way the councils use this matching grant.

NSERC has been trying to encourage university-industry cooperation for some time, but began a formal university-industry (UI) program in 1984 to encourage much closer ties between these two sectors. Through this program, NSERC jointly funds university-based research activities with the private sector. With the start of the matching grants program, NSERC decided to devote its federal matching grants to its UI program. Any unused portion would then be used to support other program activities. For the first year of the program, NSERC received $25.4 million in federal matching contributions and devoted $20 million to the UI program in 1987-88. Officials from NSERC told members of the Committee that they expected to receive $40 million in federal matching grants for 1988-89 and anticipated spending close to $30 million on the UI program.

In addition to allocating the first draw of the matching grants to its UI program, NSERC also provides some incentive to universities for generating private sector support. For the first year, 1986-87, NSERC gave 10 per cent of the maximum federal contribution, or $2.54 million to the universities generating the private sector support. Because the eligible support amounted to $68 million, the actual incentive was reduced to 3.7 per cent. For 1987-88 and 1988-89, the incentive is set at 20 per cent and 30 per cent of the maximum federal matching grant, or $8.1 million and $19.2 million respectively.

For NSERC, fifty institutions reported receiving private sector contributions of $68 million in 1986-87. Of this, $39 million came from the business sector with 61 per cent of that coming from Ontario and 16 per cent coming from Quebec. The reported contributions received by each university are unevenly distributed with the universities of Toronto and Waterloo each receiving approximately one-sixth of the total. The top five schools (Waterloo, Toronto, McGill, Queen's and Alberta) account for half the total. In fact, twenty universities account for close to 90 per cent of this total. Chart One in the annex compares NSERC's and SSHRC's experience in this area.

Prior to the Matching Grants policy, SSHRC did not have any specific program to encourage university-private sector collaboration. In the 1986- 87 fiscal year, SSHRC introduced its Canada Research Fellowships program to increase the career opportunities of promising researchers in the social sciences and humanities. While this program was to be financed jointly by the private sector, SSHRC reported that there was virtually no response from the business community. Virtually all the money used for this program came from the endowments of universities, which according to government guidelines, are eligible for federal matching grants.

SSHRC reports that in 1986-87, fifty-one institutions received $24.7 million in private sector contributions that were eligible for federal matching grants. Of this, only 17 per cent came from private businesses. University endowments, providing 35 per cent of the total, were the largest single source of eligible contributions. (See Chart Two in the annex for comparisons between NSERC and SSHRC of these data.)

The University of Toronto, with 23 per cent of the total, was the largest single recipient. University of Alberta followed with 10 per cent . Just as with NSERC, five schools (Toronto, Alberta, Queen's, York

and Ottawa) generated over half the total contributions.

SSHRC, like NSERC, provides an incentive to the universities that generate the private sector contributions. In the first year SSHRC intended to provide 20 per cent, or $1.2 million, of the federal contribution of $6 million. However, due to the ineligibility of the private sector contributions made under the Canada Research Fellowship program, this was reduced to $840,000.

MRC, like SSHRC, did not have any program in place to foster university-industry activities directly. Following the announcement of the matching grants policy, MRC adopted the objective of enhancing the interaction between university and industry researchers in the health sciences. In 1987-88, the first year of its UI program, MRC reported spending $600,000 and indicated that they expected this to rise to $3 million in 1988-89. Industry contributions under the program are expected to equal about half of MRC's support.

MRC also indicate that they have been supporting university-industry collaboration since 1980, but without a formal program. In 1986-87 contributions by industry to MRC funded research (mainly from the pharmaceutical sector) amounted to $7.7 million. Over the same period, MRC contributed $10.8 million to these projects.

Details about the source of eligible private sector support and the universities which received this support under the Matching Grants Program were not provided by MRC. It did report however, that aggregate information indicating that it had exceeded the amount that the government was prepared to commit, thereby insuring that it received the maximum of $13.1 million for 1987-88. It should be noted that only the amounts from private agencies such as the National Cancer Research Institute and the Heart Foundation that exceed $65 million are eligible for federal matching grants. This minimum amount was the aggregate level of university research supported by these private agencies in the year before the beginning of the program.

ISSUES FOR CONSIDERATION

When the Committee began its examination of the estimates associated with the Matching Grants Program, it was aware that the government was planning to review the effectiveness of the program in the 1989-90 fiscal year. From its previous report on COMPREHENSIVE AUDITING, members of the Committee are well aware that measuring effectiveness in the broadest sense means much more than determining whether the program achieves its intended results. It was one of our intentions in producing this report to outline some of the characteristics of effectiveness that are appropriate for this program and to indicate our findings to date.

1. Appropriateness of the Program

Is the design of the program appropriate for meeting the objectives?

The objectives of the program essentially are to get the universities and the private sector to increase their overall level of collaboration and the volume of university-based research. Yet the program the government and the councils have designed offers nothing to individual researchers for seeking out private sector support. Any incentives paid go directly to the general research budgets of the universities and not to the projects supported by private sector money. (Professor Nowlan did inform the Committee that the University of Toronto was an exception and returned some of the money to the individual researchers who generated the initial private sector contribution.)

In addition to the lack of incentives within the program design, the definition of the private sector established by the government and used in this program may be flawed. That definition includes the following:

- businesses;
- individuals;
- designated Crown Corporations;
- private non-profit organizations;
- private foundations and trusts, e.g. university endowment funds;
- charitable organizations.

As indicated earlier, SSHRC reports that for 1986-87, $3.7 million, or 15 per cent of the total eligible contributions from the private sector came from business organizations whereas university endowment funds represented the largest single contributor providing $10.5 million, or 42 per cent of the total. NSERC reported that 57.3 per cent of its eligible contributions of $68.1 million came from the business sector while university endowment trusts contributed $10.1 million, or 14.8 per cent of the total. While the MRC did not provide such information, Dr. Bois, the President of the MRC, indicated that a large share of the eligible contributions came from the drug companies.

It would appear that the broad definition of the private sector has had a significant impact on the level of eligible contributions, particularly for SSHRC and to some extent for NSERC. If the government matched eligible contributions from the business sector only, SSHRC would have been eligible for $3.7 million in the first year of the program or $2.3 million less than theydid receive. NSERC still would have received its full complement of $25.4 million since the business sector contributed almost $39 million.

But if the intent behind the objectives of the program was to increase the level of university-business collaboration, the broad definition of the private sector clouds the extent to which that collaboration has occurred. Alternatively, without this

broad definition, SSHRC would have had difficulty in obtaining the maximum federal contribution. The Committee was told that the university community had requested that university endowment funds be included in the definition and we can see why they would want this. But is it really appropriate? This is the kind of question we would hope that the evaluators will consider when they review the program.

2. Achievement of Intended Results

Is the program achieving what was expected when it was introduced?

From the information received from the three research granting councils there is nothing to indicate one way or another whether the program has been instrumental in generating any *additional* support from the private sector.

In the previous section, we reported on the amounts of money that the councils were receiving from the private sector. The problem is that no one seems to know whether this is more, less or the same level of support than before the program began because that information has not been collected. It may be possible to obtain those data but that would require universities research offices to pull it together, something they have not been asked for and something they might be reluctant to do because of the time and expense. Furthermore, there are no signs to indicate whether private sector support is on the rise since the program began.

3. Relevance of the Program

Does the program make sense in the context of the problem or condition?

In the document entitled STRENGTHENING THE PRIVATE SECTOR/UNIVERSITY RESEARCH PARTNERSHIP: THE MATCHING POLICY RULES, there is an open letter from the Minister of Finance and the Minister of State for Science and Technology calling for stronger collaboration between the private sector and the universities. It states:

> ...it is anticipated that the transfer of research results to the private sector and the speed of their application for the economic and social benefit of the country will be significantly enhanced"

This statement implies that the problem we face in Canada is an inadequate level of new knowledge being transferred from university labs to the marketplace. Dr. Wynne-Edwards, Vice- President, Research and Development from Alcan International Ltd. told the Committee that this was not really an accurate understanding of the matter. He said:

> The objective of the scientist in the university system is to produce new knowledge and to publish it internationally.. ..A lot of it is done and published internationally in order to access the rest of the world knowledge in that field. No matter how munificent the taxpayer in Canada becomes we will never perform more than 1 or 2 per cent of the research going on in the world. So a major task of universities is to be a listening post, to gather the other 98 or 99 per cent going on elsewhere. Part of the competitive situation we are in now is that other countries are much better than we are at picking up that knowledge and making money out of it. The problem does not lie in universities, but in Canadian business. (Page 31: 24)

Dr. Wynne Edwards did not mean that industry wants universities to stick to basic research while it will carry out the applied side. Professor Nowlan refined this argument by pointing out that the concepts of basic or curiosity research, and applied research are outmoded. He contended that a better classification is to consider research as either pre-competitive or competitive. Using this classification, industry is more than willing to see universities engage in research that does not have direct application to the market.

Professor Nowlan pointed out that this kind of research needs to be published and exposed to peer review so that the best ideas are honed and refined. If these ideas reach the competitive stage and have direct application to the market place, industry will be likely to terminate their university collaboration on that particular activity and continue the applied research in their own labs.

None of this means that university-industry collaboration should be discouraged. Rather, it means that high expectations of important results from this collaboration are likely to be disappointed. From our hearings, the message seems to be that university-industry collaboration is necessary to establish the networks so that our best minds are pursuing pre-competitive ideas in areas where Canadians are capable of undertaking world class research.

The Committee hopes that when the government begins its evaluation of this subject, it will look at what Canada hopes to achieve to encourage universities and industry to collaborate. If we are trying to increase the competitive stage of research, then we may have to strengthen the incentives to industry to do this kind of research. In doing so, we will have to understand that the nature of this kind of research makes it secretive because it will have direct application to the marketplace. Alternatively if we want to increase the collaboration of industry and universities in the pre-competitive stage of research, then we should not necessarily expect it to have direct application to the market in the immediate future or ever.

These are the issues that should be looked at to determine if the program in place is relevant to the condition or problem we are trying to resolve.

4. Acceptance by the Community

Has the community accepted this program?

We define the community as the clients or the direct participants in the program. This includes the three research granting councils, the universities and their research staff, and the private sector contributors.

The three research granting councils are the direct clients of the government, leaving the university community and the private sector at arm's length from the primary source of the money. In fact, the government has been deliberate in maintaining this relationship and allows the councils a considerable amount of room in deciding how to use the federal contribution. Where the government has intervened is in establishing a definition for the private sector, and in placing conditions on the definition of eligible research activities, limiting these to such areas as research projects and equipment, research training and development, and university chairs. It does not allow activities primarily related to education nor investment in land and buildings.

The clients of the research granting councils are the universities and the research community. It is individual researchers who first report to their universities that they have received a research grant from a private sector donor. The universities in turn report to the research granting councils the total amount of eligible private sector contributions they have received. The research councils then decide how much, if any, they will return to the universities as an incentive for generating the grant. And it is up to the individual university to decide how much, if any, to return to the individual researcher or project as an incentive for generating the grant that started the whole chain of events.

From the evidence heard, the Committee concluded that at the present time there is nothing to indicate that the program has gained any acceptance or positive endorsement by all the key players. With respect to the research granting councils, they clearly want the program to succeed, but their acceptance seems to be clouded by the fact that they always are in need of additional money. With respect to the universities, they too want the program to succeed, but like the granting councils, they see this program as a new-found source to create and support research activities that are not supported elsewhere. But the group that is essential to the success of the program, the individual researchers and the private sector donors, see virtually nothing new in this program compared to what was available to them before the program started.

5. Secondary Impacts

When this program was first announced, there were many who were critical of its success because of its design and more importantly because of the inappropriateness of the objectives established for it. Many observers felt that the principal issue that had to be faced was not a need for increased collaboration between universities and industry, but the shrinking budgets (in real terms) of the three research granting councils. In our report on FEDERAL POLICY ON POST-SECONDARY EDUCATION we supported the view that the research granting councils should have their base budgets increased in line with inflation. This did not mean that we supported all the work of these councils but we felt that there was, and still is, a role for the kind of research that the councils support and that it should not be diminished simply by erosion through inflation. Yet that is what the government had been doing until its announcement in May 1988 to increase the base budgets of the councils by $200 million over the next five years. This program, which started out with the objective of increasing the level of collaboration between academia and business appeared just as much geared to increasing the level of the granting councils' funding base. Yet in trying to do both, it appears that neither is being done very well. The councils have been relying on funding increases that are conditional upon private sector participation; yet there is no incentive to encourage that participation.

In addition to this program being an inappropriate way to augment council budgets, it also redistributes this money to the large research universities. Earlier we described how five universities (Waterloo, Toronto, McGill, Queen's, and Alberta) accounted for half the reported income from the private sector under NSERC rules. For SSHRC, five universities (Toronto, Alberta, Queen's, York, and Ottawa) also accounted for about half the reported income in the first year of the program. We are not saying that this is wrong, but the government must realize that this is a secondary and possibly unintended effect of the program.

These secondary effects of this program, i.e. the impact on council budgets and the redistribution of research dollars, must be considered when the government reviews this program next year.

6. Cost of Administering the Program

Any review of a broad-based definition of effectiveness must include an examination of the economy and efficiency of the operation. The Committee did not spend a lot of time on this subject but did discover some interesting facts. First, the granting councils had to engage additional staff to administer the program. In fact, Dr. May, President of NSERC, told the Committee that NSERC added sixteen persons to administer the program. Yet no part of the money the universities received from the councils

could be used for administrative purposes. Dr. May told the Committee that he expected the universities to engage additional staff to administer the Matching Grants Program. But Ms. Carol Gillen informed the Committee that the University of Toronto had not hired any new people to handle its administration. There is little doubt that without these resources, the universities would be hard pressed to administer this program effectively. The Committee hopes that when the government looks at the effectiveness of this program, it will examine the extent to which there are inadequate resources to make the program operate effectively.

The Committee recognizes that this policy of not using research money from the granting councils for administrative support is consistent with the practice of the councils before this program began. The Committee believes it is wrong for the government to assume that the overhead costs of research will be covered out of general operating money of universities. This too was a matter we looked at in our report on FEDERAL POLICY ON POST-SECONDARY EDUCATION, where we recommended that when the government supports research at universities, either through a grant or under contract, the overhead costs of that research should be covered fully .

The Next Step

While our Committee decided not to question the objectives of this program at this time, it became very clear that the Matching Grants Program of the federal government needs very careful and serious examination because it appears to contain some serious flaws. These range from a program design that is unsuited to meeting the objectives established for it, to the achievement of program results that may never have been intended.

At this stage we would like to offer some suggestions for a redesign of the program that should be considered when this program is to be evaluated.

First, we suggest that there be a reconsideration of the premise for university-industry collaboration. If we need to increase the transfer of ideas from the universities to industry, the solution may not be more university research supported by industry. The problem may lie with industry's inability to adapt good ideas that are in the pre-competitive stage and move them to the competitive stage and the market. If this is true, then more university research is not the answer; it may require other industrial incentives. The now defunct Special Research Tax Credit program had a very reasonable objective but was flawed by program design.

For more pre-competitive research that is world class, the answer could lie in strengthening the Network Of Centres of Excellence program the government announced in May of this year. But because this program is still in the design stage, it is not possible to comment on its chances for success.

Alternatively, if the government feels that we need to maintain the current level of basic research that now takes place in our universities independent of university-industry collaboration, then the solution is to ensure that the base levels of the granting councils keep up with inflation.

The Report of the University Committee of the National Advisory Board on Science and Technology (NABST) to the Prime Minister also was critical of the attempt by government to try to solve the underfunding problem and the need for university-industry collaboration with one ill-defined program. The report states:

> While conceptually interesting, the matching-grants policy will fail to provide any real increase over inflation before the fiscal year 1989-90. Far from solving the problem of funding university R&D, therefore, it simply compounds it. (p.126)

We note that the government has announced an additional $200 million increase in the budgets of the three councils over the next five years. This appears to be very close to estimates for inflation over this period.

The report of the University Committee of NABST also states that:

> The major flaw in the matching-grants policy is that it attempts to achieve too much and fails to address the fundamental issue. While the objective of increasing collaboration and joint research activities between the private sector and the universities can be met, it is unrealistic to expect this policy to solve the overall problem...Thus the design of the matching-grants policy leaves much to be desired. (p.128)

While we have focused on the University Committee of NABST, its Industry Committee also was very critical of the Matching Grants Program.

To conclude this report, the Committee offers the following suggestions for the redesign of a matching grants program.

Recognize that research in the social sciences and humanities is different from research in the natural sciences and engineering, which in turn is different from medical sciences research. A sophisticated understanding of these significant differences is essential in designing a program of university-industry collaboration. The kinds of industry that support each of these three divisions of research are considerably different from one another and have

considerably different access to financial resources to support research.

Recognize that if the objective of the program is to encourage university-industry collaboration, including university endowment funds as part of the private sector does not meet that objective. The inclusion of this category seems to be there simply to allow social sciences and humanities to get the maximum federal matching of private sector contributions.

Recognize that if the objective is to encourage an increase in support from the private sector, then there has to be some encouragement to the researchers and universities to solicit this support, and there has to be an incentive for the private sector to increase their contributions from their current level of support. This means providing overhead funding so that universities can develop such a program.

Recognize that before it renews this program, the government must undertake a thorough broad-based evaluation of its operation to date. While the government is already committed to undertaking a review, we wish to stress that such a review must not be so narrow as to focus exclusively on whether the program has met its objectives. It must include a review of other factors that go into any broad-based measurement of effectiveness. This includes such elements as the appropriateness of the program, its relevance to the stated needs, its acceptance by the community it is intended to serve, its secondary and unintended effects, and the cost of its delivery.

The review must include an examination of the original purpose of the program and an evaluation as to whether the achievements of this program are still appropriate. This also means consideration of whether there are better ways of achieving the stated objectives such as alternative programs like the new Network of Centres of Excellence program or special strategic grants through the research granting councils.

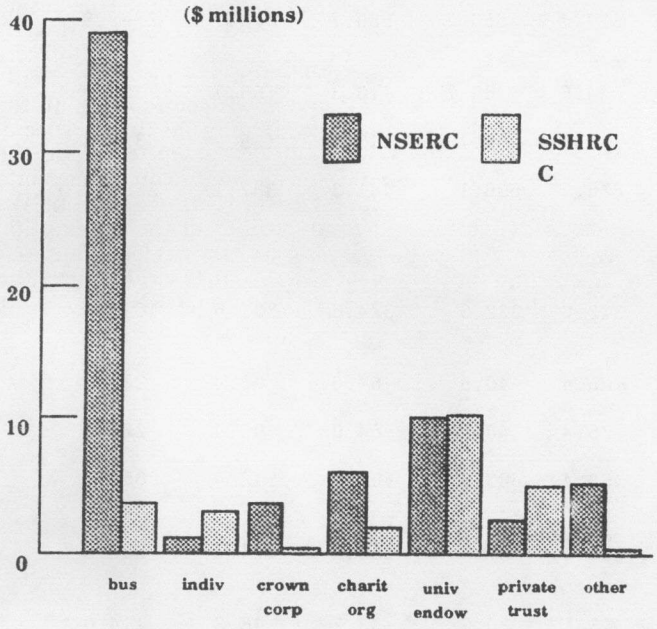
Lastly, the government is to undertake this broad-based review in 1989-90, it should begin now by paying special attention to the design of the evaluation and by submitting it to the program clients to ensure that the evaluators will be looking at the right things. For example, it may be that a special evaluation committee should be set up to advise the Minister or Deputy Minister on what is an appropriate set of elements that should go into this evaluation. We look forward to seeing the results of this evaluation and serve notice that we may call on the department at the beginning of the next fiscal year to explain how the department will undertake this evaluation.

Respectfully submitted

FERNAND E. LEBLANC
Chairman

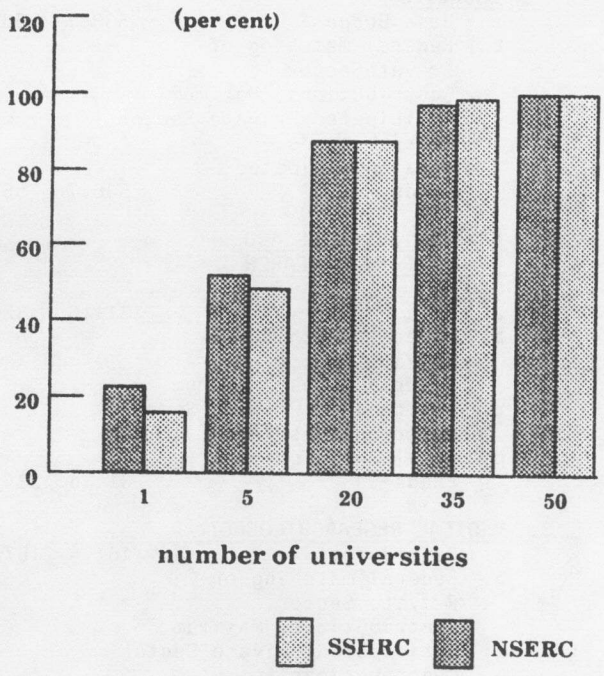
ANNEX A

Source of Contributions 1986-87



Source: SSHRC and NSERC

Cumulative Distribution Matching Grants 1986-87



Source: SSHRC and NSERC

ANNEX B

THE FEDERAL 5-YEAR PLAN FOR UNIVERSITY RESEARCH

($ MILLIONS)

	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1986-91
1. TOTAL OF THREE GRANTING COUNCILS							
a. Base Budget	536.7	562.0	537.7	556.7	560.7	575.7	2792.8
b. Federal matching of PrivateSector Contributions, Maximum	-	-	44.5	69.7	110.3	155.7	380.2
c. Anticipated Private Sector Contributions	-	-	44.5	69.7	110.3	155.7	380.2
d. Total Anticipated Funds	536.7	562.0	626.7	696.1	481.3	887.1	3553.2
2. NATURAL SCIENCES AND ENGINEERING RESEARCH COUNCIL							
a. Base Budget	311.6	324.1	312.6	322.6	324.6	331.6	1615.5
b. Federal Matching of Private Sector Contributions, Maximum	-	-	25.4	40.5	64.0	90.4	220.3
c. Anticipated Private Sector Contributions	-	-	25.4	40.5	64.0	90.4	220.3
d. Total Anticipated Funds	311.6	324.1	363.4	403.6	452.6	512.4	2056.1
3. MEDICAL RESEARCH COUNCIL							
a. Base Budget	161.4	167.9	161.4	167.4	168.4	174.4	839.5
b. Federal matching of Private Sector, Contributions, Maximum	-	-	13.1	20.9	33.2	46.8	114.0
c. Anticipated Private Sector Contributions	-	-	13.1	20.9	33.2	46.8	114.0
d. Total Anticipated Funds	161.4	167.9	187.6	209.2	234.8	268.0	1067.5
4. SOCIAL SCIENCES AND HUMANITIES RESEARCH COUNCIL							
a. Base Budget	63.7	70.0	63.7	66.7	67.7	69.7	337.8
b. Federal Matching of Private Sector Contributions, Maximum	-	-	6.0	8.3	13.1	18.5	45.9
c. Anticipated Private Sector Contributio	-	-	6.0	8.3	13.1	18.5	45.9
d. Total Anticipated Funds	63.7	70.0	75.7	83.3	93.9	106.7	429.6

THE SENATE

Thursday, July 28, 1988

The Senate met at 10 a.m., the Speaker *pro tempore* in the Chair.

Prayers.

THE LATE JOHN FORBES MacNEILL, Q.C.

FORMER CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS—TRIBUTES

Hon. Jacques Flynn: Honourable senators, those of you who had the privilege of knowing John MacNeill will share my sadness at his passing yesterday at the age of 90. John MacNeill was well known. He was Clerk of the Senate and Clerk of the Parliaments, and a Master in Chancery for many years. Before that he was Law Clerk and Parliamentary Counsel of the Senate, following several years with the Department of Justice.

John MacNeill was born in 1897 in Hampton, New Brunswick. He received his law degree from Dalhousie University and was appointed to the bar of Nova Scotia. He served in World War I from 1915 to 1919, after which he came to Ottawa. For a time—I believe it was around 1924—he served as Secretary to Sir Charles Fitzpatrick, a former Chief Justice of Canada, who was then the chairman of the Statute Revision Commission.

In his day John MacNeill was considered one of the best constitutional lawyers and experts. Here in the Senate no decision was taken by either side if there was any doubt without first consulting John MacNeill. In short, I would describe him as a gentleman and a scholar. He was always extremely pleasant and everyone enjoyed dealing with him.

[*Translation*]

Personally, I remember a man who was an asset to the Senate. He reminds us, perhaps, of a time when this institution was more serene. It would be difficult to imagine John MacNeill in the context of 1988.

I would point out that after he left the Senate in 1968, he never failed to send me Christmas greetings. We saw each other a few times; we sometimes spoke on the telephone.

Frankly, John MacNeill is someone I shall not forget; no one fortunate enough to have met him will forget him. Speaking on behalf of all senators, I extend to Mrs. MacNeill, their two daughters and all members of their family our kindest regards and deepest sympathy.

[*English*]

Hon. Gildas L. Molgat: Honourable senators, speaking on behalf of this side, I want to associate myself and, I am sure, all of my colleagues with everything Senator Flynn has said.

I did not have the personal pleasure of knowing Mr. MacNeill as well as Senator Flynn did, but I did have many dealings with him and met him on numerous occasions. I think it may have been the good fortune of a number of my colleagues, who may not have been here during Mr. MacNeill's time with the Senate, to have met him frequently in the halls. I remember particularly that he was a fairly frequent visitor. One of the places I used to meet him was the Senate barber shop, where we would continue the discussions we had had in past years on the Senate and public affairs in general. He was, indeed, one of those great public servants, a man of very high calibre who had the respect of all individuals, regardless of party affiliation. I, for one, never knew his party affiliation, and still do not know if he even had one.

Mr. MacNeill was an individual who impressed people by his very presence. You could argue with him, yes, but you knew he was speaking with profound knowledge and a real sense of commitment to this institution.

His death is a grave loss to Canada, but he will leave behind him memories for a number of senators who are still here, but, more than that, the real memory of an individual who contributed greatly to making the Senate what it is.

BUSINESS OF THE SENATE

On Reports of Committees:

Hon. Joan Neiman: Honourable senators, I shall have a report on Bill C-58 shortly. I ask for leave to revert to Reports of Committees as soon as I receive it.

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

Hon. Senators: Agreed.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): 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, 16th August, 1988, at two o'clock in the afternoon.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, it is certainly my pleasure to support this motion. I just want to make a passing comment, and that is

that I think there are some adjournments of the Senate during which pressure should not be put on committees to meet. I have always supported the concept that, when there is no business for the Senate, the Senate should not be called just to provide a reason for committees to meet. On the contrary, I have always supported the concept that, if the Senate does not sit because there is not enough business to occupy it, it should always be understood that committees with business to do should meet during such an adjournment.

• (1010)

However, some adjournments of the Senate can be considered summer, fall or winter breaks. I think that, while it has not been so designated officially, this is our summer break. And I think it is the only break we are going to get this summer, other than an election, which, for a senator, is not a break, and I am not using "break" in the other sense of the word.

In this case, then, I know that certain committees do plan to meet during the break. They should certainly not be discouraged from doing so, but I think it is important that we understand that this is an adjournment different from many of our other adjournments. We all understand that at Christmas, for example, committees will not be asked to meet while the Senate is not sitting. I am sure that is not the intention of Senator Doody's motion, but I think it is important for us to understand that distinction.

Hon. Duff Roblin: Honourable senators, my honourable friend's intervention has thoroughly confused me. I am under the impression that the interval about which he speaks will be an extremely busy one for some senators. The Committee on Banking, Trade and Commerce will be meeting next week. It will meet on Tuesday and plans to meet for a total of three days that week. The Committee on Foreign Affairs will be meeting on Monday of the following week and will continue to meet for another three or four days. As a member of both these committees, I think I am going to be well employed during this interval.

I am sorry to say that, unless my friend has some information for me that I do not already have, I see no dimension of a summer break in what is coming up; in fact, I see it as a very busy time. I just wonder whether I have misunderstood the signals sent to me about the meetings of these committees. As far as I am concerned, I expect to be well employed.

Senator Frith: Yes, honourable senators, I think Senator Roblin has misunderstood, and I agree with him—in fact, I also expect to be busy during this break. The only point I was trying to make was that when we discussed yesterday the possibility of an adjournment it was in the context of the need for the committees to meet during the break. That is why I said that any committee planning to meet during this two-week period should not be discouraged from doing so. I simply draw attention to the fact that there is a difference between a motion for an adjournment that constitutes a break and one during which the Senate may have no business but the committees have plenty of business.

[Senator Frith.]

Senator Doody: Honourable senators, I really feel that I have to say a word or two on the subject that is under discussion. When Senator Frith and I discussed the possibility of this short adjournment, at all times I made it clear that it would not preclude the committees from working, from doing the task that has been assigned to them by the Senate. I do not think that when we accepted our positions here we were automatically given a schedule of summer holidays, Christmas holidays and so on. I think we were sent here to do a certain amount of work, and we accepted that. I appreciate the fact that honourable senators have done that. I thank them and I am grateful that so much of this material has gone to committee. I am also grateful to the committee members, who have indicated that they will meet during the next two weeks to deal with the material that is before them.

Honourable senators, I do not want any signals sent out—certainly not from me—that the committees are being encouraged not to meet to do the work that has been sent to them. I understand that not only are the committees mentioned by Senator Roblin sitting but the Agriculture and Forestry Committee has also scheduled meetings for next week. Those committee members have three days of work before them. I congratulate them and commend them for it. I think that is a far more admirable attitude to take than the attitude that we deserve a break, therefore we should all pack up and go home. I do not think we can really do that when there is business to attend to.

Hon. Allan J. MacEachen (Leader of the Opposition): That is right.

Senator Frith: That could apply to Christmas, too, then.

Senator Doody: That could very well be, Scrooge!

An Hon. Senator: We might even postpone Christmas.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to inform the Senate that Senator Murray is not with us today. I will be pleased to take as notice any questions honourable senators may wish to ask.

BRETTON WOODS AND RELATED AGREEMENTS ACT

BILL TO AMEND—THIRD READING

Hon. Orville H. Phillips moved the third reading of Bill C-126, to amend the Bretton Woods and Related Agreements Act.

Motion agreed to and bill read third time and passed.

NATIONAL PARKS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Rossiter, seconded by the Honourable Senator Ottenheimer, for the second reading of the Bill C-30, An Act to amend the National Parks Act and to amend An Act to amend the National Parks Act.—(*Honourable Senator Kenny*).

Hon. Colin Kenny: Honourable senators, I should like to speak briefly on this bill. I intend to highlight areas that I believe should be examined in more detail when the bill goes to committee. The best way to do that would be to touch briefly on these points and serve notice on my colleagues that I intend to pursue these matters further in committee.

First, I should like to note that in subsection 5(1.5) the minister is called upon "to report to Parliament every two years on the state of the parks and progress towards establishing new parks." However, in subsection 5(1.1) the minister reports only to the House of Commons on the "management plan for that park in respect of resource protection, zoning, visitor use", et cetera. I am curious as to why only the House of Commons would be dealing with that report rather than Parliament.

Second, there is the question of boundaries for the Sunshine ski area. The bill was introduced some time ago and has been delayed principally because of this issue. The bill calls for the Governor in Council to establish boundaries for the Sunshine ski area. There are many people who would like to see legislated boundaries for the ski area.

• (1020)

It involves the request of Sunshine to expand beyond its current boundaries. The resort would like to build a 260-room hotel up at the top of the mountain, a new lift line and an expanded parking lot. It is a contentious issue. Skiers like to have the opportunity to have accommodation on hill, but there are many people who are concerned that, if accommodation is expanded on hill beyond that currently in existence, damage will occur to the fragile Sunshine Meadows. Likewise, there are concerns among a variety of people that expanding the parking lot will inevitably lead to further damage and overuse of an area that is already heavily used. I believe that the committee should examine this question in some detail. If the boundaries are placed in the legislation, it will make expansion difficult and will ensure the protection of a fragile area. If the boundaries can be varied, there is likely to be more development. It appears that, if Sunshine can be allowed to develop, we can also expect to see significant expansion at other ski areas within the park. I believe that the committee should examine this fully.

The question of horses, mules and donkeys in the park is also worth considering further by the committee. There are commercial operators who currently conduct tours through the park, and these animals foul the trails.

This past weekend I hiked about 40 kilometres through Banff Park. Half of the trails that I hiked on were badly fouled. The current legislation permits operators to conduct these tours through the park, and I think the committee should take a better look at that question.

The bill is important because it allows Banff to proceed further, after its plebiscite, towards a status more appropriate to a community, and it is a useful bill from that point of view. However, the committee should have an opportunity to examine how quickly the town will evolve into a more normal status. The bill is important and useful because it has increased the fines on poachers significantly.

The bill does not address some other issues that it perhaps should. It does not address the question of pingos, which are structures that occur only in the far north, specifically in the area around Tuktoyaktuk. I have seen these pingos and they are very striking abnormalities in the earth's structure. In the past the minister has spoken about devising ways to ensure that they are protected so that future generations can see them and enjoy them. Yet there is no provision in this legislation for their protection.

There is also no non-derogation clause in this legislation, and I think the committee should examine it. We heard our colleague, Senator Watt, speaking on this issue. It is an important one for our first citizens, and I believe that the committee should further examine that question.

Briefly, honourable senators, that summarizes the issues I believe we should pursue in committee. If there are no other speakers, I would be happy to see the bill go to the Standing Senate Committee on Energy and Natural Resources.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Rossiter, bill referred to the Standing Senate Committee on Energy and Natural Resources.

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BILL

REPORT OF COMMITTEE

Leave having been given to revert to Reports of Committees:

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, July 28, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-SEVENTH REPORT

Your Committee, to which was referred Bill C-58, An Act to provide for the implementation of treaties for mutual legal assistance in criminal matters and to amend the Criminal Code, the Crown Liability Act and the Immigration Act, 1976, has, in obedience to the Order of Reference of Wednesday, July 13, 1988, examined the said Bill and now reports the same without amendment but with the following observations:

Recognizing the importance of having a regime of mutual legal assistance in Canada in order to combat international crime more effectively, your Committee is prepared to recommend the passage of Bill C-58 without amendments. At the same time, we express serious concern about endorsing such open-ended legislation. This Bill would apply to future as well as existing mutual legal assistance treaties signed by the government of Canada. It provides no mechanism by which Parliament could screen executive arrangements whose application may affect the rights and liberties of people within our borders.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

THIRD READING

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

Hon. Joan B. Neiman: With leave of the Senate and notwithstanding rule 45(1)(*b*), now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

● (1030)

ROYAL ASSENT

NOTICE

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

28 July 1988

Sir,

I have the honour to inform you that the Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 28th day of July, 1988, at 11:30 a.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Jean M. Sévigny
Deputy Secretary, Operations

The Honourable
The Speaker of the Senate
Ottawa

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I think I detect a sense in the house that all remaining orders stand.

Senator Petten: Agreed.

Senator Frith: As usual, you are sensitive to our wishes.

Senator Doody: I could feel the vibrations.

The Senate adjourned during pleasure.

At 11.30 a.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy 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 Governor General was pleased to give the Royal Assent to the following bills:

An Act to provide for the implementation of treaties for mutual legal assistance in criminal matters and to amend the Criminal Code, the Crown Liability Act and the Immigration Act, 1976 (*Bill C-58, Chapter 37, 1988*).

An Act respecting the status and use of the official languages of Canada (*Bill C-72, Chapter 38, 1988*).

An Act to provide for the implementation of an agreement respecting Indian lands in Ontario (*Bill C-73, Chapter 39, 1988*).

An Act to ensure the safe operation of railways and to amend certain other Acts in consequence thereof (*Bill C-105, Chapter 40, 1988*).

An Act to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain Acts in consequence thereof (*Bill C-121, Chapter 41, 1988*).

An Act to amend the Bretton Woods and Related Agreements Act (*Bill C-126, Chapter 42, 1988*).

An Act to change the name of the electoral district of Chapleau (*Bill C-308, Chapter 43, 1988*).

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, August 16, 1988, at 2 p.m.

THE SENATE

Tuesday, August 16, 1988

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

Prayers.

[*Translation*]

THE LATE FÉLIX LECLERC

TRIBUTES

Hon. Martial Asselin: Honourable senators, today I would like to join all those in Canada as well as abroad who since last week have risen to mourn the passing of Félix Leclerc and point out his priceless contribution to the development and promotion of French life in North America. I thought that the Senate of Canada should pay tribute to this proud and valiant Quebecer who in his poems, songs and plays strongly defended the linguistic and cultural heritage of French-speakers in this country and inspired future generations to hold high the torch of their *raison d'être*. Honourable senators, I wish to express our deep sorrow to all those close to the deceased.

At a time when French Canada was barely recognized internationally, especially in France, Félix Leclerc in his songs recalled the existence of this French-speaking community, isolated to be sure, but so lively, original, ambitious and talented. He was the political conscience of a people as it awoke to the modern era. He presaged the political awareness that was to grip it in the early 1960s.

From his considerable talents as a lyricist and musician came songs that remain among the most beautiful in the French repertoire, because they express simply and poetically the soul of a people, its attachment to the land and its harmony with nature.

The international French community, honourable senators, has lost one of its greatest ambassadors. At its general assembly in Yaoundé last January, the International Association of French Language Parliamentarians, which I now chair, awarded Félix Leclerc the *Ordre de la pléiade*, an order for the French-speaking world and the dialogue of cultures, with great honour for his inestimable contribution to the defence and promotion of the French language and culture. This order will be awarded posthumously next fall.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we wish to endorse Senator Asselin's remarks. I did not know Félix Leclerc very well, but I have heard his songs on records and I saw him on several occasions in concert in Salle Wilfrid-Pelletier at Place des Arts in Montreal. Something that struck me was that his reputation was such that usually posters would only announce "Félix". So the question "Félix who?" never required an answer. "Félix" meant Félix Leclerc.

As Senator Asselin mentioned, a great artist and a great Canadian has passed away. He leaves a great void in Canadian artistic life, but fortunately his artistic works will live a very long time in the musical life of Canada and the world.

[*English*]

QUEBEC COURTS AMENDMENT BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-145, to amend various acts to give effect to the reconstitution of the Quebec Provincial Court, Court of the Sessions of the Peace and Youth Court as the Court of Quebec.

Bill read first time.

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

Hon. C. William Doody (Deputy Leader of the Government): On Thursday next, August 18, 1988.

Hon. Royce Frith (Deputy Leader of the Opposition): Tomorrow will be fine.

Hon. Jacques Flynn: With leave, I would like to move it for tomorrow.

Senator Doody: Fine.

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

Senator Frith: Honourable senators, it seems possible that we could both speak on it tomorrow, have a committee meeting and try for Royal Assent, if there is to be Royal Assent this week.

We need to look at the schedules to ensure that the i's are dotted and the t's are crossed. Apart from that, as I understand it, this is a bill to have one name for various courts in Quebec. I suggest that we place it on the Orders of the Day for second reading tomorrow.

Hon. Senators: Agreed.

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

BLUE WATER BRIDGE AUTHORITY 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-210, to amend the Blue Water Bridge Authority Act.

Bill read first time.

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

Hon. C. William Doody (Deputy Leader of the Government): On Thursday next, August 18, 1988—subject to correction!

Hon. Royce Frith (Deputy Leader of the Opposition): I have a small problem with this bill and I think we should leave it until Thursday.

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, August 18, 1988.

AIR CANADA PUBLIC PARTICIPATION BILL

REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Ian Sinclair: Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce has the honour to present its twenty-eighth report respecting Bill C-129, to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings* of the Senate and to the *Debates of the Senate* of this day and that it 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. 4180.*)

A Clerk at the Table:

Tuesday, August 16, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-EIGHTH REPORT

Your Committee—

Some Hon. Senators: Dispense!

[*Translation*]

Hon. Jacques Flynn: Mr. Clerk, would you please read only the conclusion of the report?

[*English*]

A Clerk at the Table:

Finally, it is clear from the evidence received by this Committee that relevant public policy objectives can continue to be met once Air Canada is privatized. Provision of air service on uneconomic routes is no longer the exclusive responsibility of Air Canada, and the *NTA* permits the payment of subsidies to any airline for this activity. Regarding aid to Canada's aerospace industry, a number of policy tools are available, including DRIE and other economic development programs.

Senator Sinclair: Honourable senators, before moving the adoption of the report, it might be wise if I drew your attention to a few matters.

First, as chairman of the committee, I wish to express appreciation for the large attendance of the committee during its hearings in the first week of August. Those who were here can attest to the fact that it was not a comfortable time to be engaged in Ottawa, but we were able to give it—and I use this phrase with some attribution in mind—more than cursory attention.

In doing so we dealt with a number of situations that perhaps were lost in the hurry with which the matter was dealt with in committee in the other place. We heard from 11 witnesses—professionals advising the government and professionals advising Air Canada in regard to this primary equity issue.

One matter that did disturb those people was the role of Air Canada as an instrument to carry out public policy. What had been overlooked was that Air Canada's role had changed from its early days. In fact, from 1977 onward its public policy role was no longer a condition of its operation, to the extent that it was not required to provide services other than on an established basis of business. From that time forward, under the Air Canada Act, the company was no longer a subsidiary of Canadian National Railways and had to operate in contemplation of profit.

• (1410)

Honourable senators, a point that must be remembered is that this is a privatization bill; it does not deal with deregulation of the airline industry. Indeed, in Canada the industry has, de facto, been largely deregulated since 1980, and that was enshrined in statutory form with the passage of the National Transportation Act over a year ago.

A number of other issues were dealt with by the committee, and I will just mention them since they are effectively dealt with in the report.

First, there is the matter of overhaul and operational maintenance facilities in such places as Montreal, Mississauga near Toronto, and Winnipeg. I think it is important to realize that the continuation of these facilities in those cities is a matter of statute. In other words, while no one can bind a subsequent Parliament, nevertheless, any change with respect to these facilities would require legislative change. That would also apply to the head office of the company, which is to be continued in Montreal.

With respect to safety, that matter was disposed of concisely and accurately, and the provisions in the existing legislation were brought to the attention of a number of people. The minister involved, who is also the Deputy Prime Minister, outlined to the committee the activities undertaken, not only by the present government but by previous governments, to improve and move forward in the area of aeronautical safety.

The committee dealt with the provisions of the Aeronautics Act and the National Transportation Act in regard to safety.

With respect to bilingualism, Air Canada is specifically required to continue its policy in this regard, because the Official Languages Act applies to Air Canada. In this respect, Air Canada may be suffering somewhat from a provision in the act which its other competitors do not need to abide by. However, Air Canada would abide by that provision in any event as a crown corporation and even as a private corporation, because, by a specific provision in the Official Languages Act, that act applies to Air Canada. However, the officials of the company did point out that the company's role as a bilingual carrier had commerical and business attributes to it, so they intended to continue to be bilingual, irrespective of whether or not that provision remained in place.

The share offering will be a primary issue. The committee had to examine this situation with some care, because the issue is up to a maximum of 45 per cent. The minister, the Honourable Don Mazankowski, pointed out that there might be some flexibility under certain circumstances beyond that 45 per cent. However, in a rather skillful way, which, in the opinion of the committee, was very well done, the majority share ownership, which will continue in the government at this time, will be proxied to the chairman of Air Canada to be voted in accordance with the wishes of the majority of the minority shareholders. In other words, what is happening here is that an arms-length relationship is being established between government and the company, and in this way private investors in this primary issue will be able to control the company, even though they are in the minority position. This public pronouncement will be part of a prospectus that will be subject to due diligence. Therefore, while it is not in legislative form, nevertheless, it has tremendous impact, as people who will be purchasing the shares will be doing so in accordance with this commitment.

There may be some concern. There was an attempt, I must say, by one witness to put a gloss on it, but there may be some concern by some investors that a majority remains in the hands of the government. Technical advisors from the U.K. to Air Canada and company pointed out that in the airline industry partialized public ownership is known and sophisticated investors are comfortable with it. One witness said that, in the minds of some people, having the government concerned to the extent of the suggested percentage level might be looked upon as a continuing strength.

The secondary issue of shares, which is provided for in the bill, will mean the total privatization of Air Canada. When that issue will take place we do not know, but the legislation has been drafted in such a way that total privatization can take place. Of course, the government's ownership will be effected by way of a secondary issue rather than a primary issue as in this case.

There is one other point. Air Canada is committed to making available to its employees an ability to participate in this primary issue. The terms and conditions of this proposal have not been finalized, but they will be outlined in the prospectus.

[Senator Sinclair.]

The committee dealt with the whole question of foreign ownership. Rather surprisingly, one competitor wanted to have the provisions protecting Air Canada from being controlled by ownership outside Canada removed. Of course, his concern did not apply. You cannot control Pacific Western Airlines Corporation because of Alberta legislation. They are the controlling shareholder; they own Canadian Airlines International. However, we noted the point and felt that the pertinent provisions in the bill were positive and proper. Moreover, the Aeronautics Act has a similar provision.

With regard to employment issues, I was impressed by the stridence of some of the union representatives' remarks on safety and such issues. Their attitude did not seem to surprise officials of Air Canada. I think that union representatives believe that jobs will be protected by having a flexible and aggressive private enterprise Air Canada. However, there may be some disquiet in the minds of certain leaders, and, again, whether it is from ideological standpoints or otherwise is not for me to say. I believe that the Air Canada people recognize, as they have in the past, the importance of being looked upon as good corporate citizens.

Honourable senators, I hope you will agree that this bill deserves your unqualified support.

Some Hon. Senators: Hear, hear!

● (1420)

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

Hon. William M. Kelly: Honourable senators, I move that the bill be placed on the Orders of the Day for third reading at the next sitting of the Senate.

Hon. Duff Roblin: Honourable senators, before we take a vote on this report of the committee, I wish to make a comment or two, which may be made now or at third reading.

Hon. Royce Frith (Deputy Leader of the Opposition): We do not need to take a vote on the report. It is adopted because it reports the bill without amendment.

Senator Roblin: I am glad to be instructed on procedure by my honourable friend. His comments in this respect are always so enlightening, and I thank him, as usual, for his courtesy in keeping me well informed.

Senator Frith: I thank my friend for his appreciation of my helpfulness.

Senator Roblin: There is one portion of this bill that attracted some attention on the part of some of us from the province of Manitoba. I am referring to the provision to do with the undertaking of the corporation to maintain its base in Winnipeg, as it has done for some time in the past.

The history of the relationship between Air Canada and the City of Winnipeg is long and tortuous. It is one in which I had some involvement in days gone by. However, I am struck by the fact that we are actually incorporating in the words of the

statute the undertaking that the maintenance base will continue in Winnipeg, as will bases in a number of other places. I would not overlook that fact. It is to become statutory. That protection was certainly not available for the City of Winnipeg in days gone by.

I call attention to the fact that the question of the maintenance base in that city, as well as those in Montreal and Mississauga, is now covered by a statutory provision. It is perhaps unusual that such a condition should be found in a bill of this sort; nevertheless, I find it satisfactory and I am glad to see it there.

In the course of the committee's examination, we spent some time talking about maintenance bases generally, and a number of interesting points emerged which I should like to mention because I think they are deserving of some public attention.

The first is the clear undertaking of the management of Air Canada that they understood the meaning and purpose of the clause on maintenance bases and that this was designed to assure the people of Winnipeg that their interest would be considered by management in the future. They understood that it was statutory; it was part of the law; and that it was not subject to managerial change or alteration.

The second point that emerged, which I think is of some interest, is an understanding of what the term "maintenance base" means, because without some kind of definition of that term one might be a little uneasy about the meaning of the clause in the bill. It was made quite clear that the definition of the term "overhaul" has, indeed, a technical meaning in the airline industry. That meaning was placed on the record by the management of Air Canada, who stated that in order to constitute an overhaul centre a base must have the capability of doing "C" checks and "D" checks on aircraft. The importance of that definition is that "C" checks and "D" checks are really checks of very great complexity and, indeed, of a high technical requirement when aircraft are being maintained. Such a check is not just a once-over-lightly sort of operation which would not really support the technical or employment interest now engaged in the Winnipeg base. It goes much deeper than that. It means a heavy overhaul in which the aircraft is stripped and the various systems re-examined.

The management of Air Canada gave us the particulars with respect to the number of person-hours required to perform these checks in connection with, for example, a 727-type aircraft. A "C" check requires about 500 person-hours and a "D" check takes approximately 15,000 person-hours. In order to have the capability of doing that kind of heavy airframe work, these centres would need to maintain the expertise and back-up support shops required for these checks. The phrase that attracts my eye is, "The need to maintain the expertise and back-up support shops required for these kinds of checks."

I rise, therefore, to support the recommendation of the committee that the bill be reported without amendment. I agree with the chairman that we had pretty good examination of all aspects of this matter, not just the maintenance facility in Winnipeg but a great many other things as well. I think we did provide a forum where all the competing interests, if they wished, could be heard. In fact, as the chairman reminded the committee on a number of occasions, invitations were extended to possible complainants who might be expected to appear, particularly from the smaller centres and regions of Canada. I think that was a good thing to do, even though it did not prompt any response from those centres.

On the whole, the committee did a commendable job. I should like to say that the chairman was unsparing in his questioning of those who appeared before us, which perhaps is no bad thing. We had an opportunity to form a judgment as to the wisdom of this particular measure. I am glad to support it and I am glad to say that, for the first time, the interests of my city in connection with the maintenance base are actually enshrined in a statute of the Parliament of Canada.

Hon. Sidney L. Buckwold: Honourable senators, having heard from Senator Roblin on his concern about aspects of this bill as it relates to Winnipeg and Manitoba, I want to say a word or two about the concerns for Saskatchewan that I expressed in committee. I support the recommendation that has been brought forward by our very able chairman. However, it should be indicated for the record that the people of Saskatchewan are somewhat concerned about the level of service that might be available to them in the future, a service which, at the present time, is still quite marginal. Saskatchewan is not the biggest market for Air Canada or for any airline. We have had the experience of airlines of national importance coming into the cities of Regina and Saskatoon, trying them for a little while, and, when they did not pay, withdrawing, leaving the cities, in the end, with even poorer service than they had had before, a level of service which has hardly been restored at the present time.

On behalf of my particular region, I raised this issue with the representatives of Air Canada, who assured me that, although it had not been public policy in the past to look after areas like Saskatchewan and other provinces that do not have major markets, consideration would be given in the future to providing a good level of service and equipment. With that in mind, I feel that the future can be even brighter for places like Saskatchewan.

Honourable senators, I am pleased to support the bill. Like Senator Roblin, I simply wanted to indicate the concerns of people in our part of the world about the service we might get in the future from a privatized Air Canada.

[*Translation*]

Hon. Pierre De Bané: Honourable senators, with your leave I would like to comment briefly on the committee's report.

I think our country had no choice when our neighbour the United States decided a few years ago to deregulate air transportation. It was clear at the time that Canada could not continue with the system it had, namely a regulated industry.

Once the concept that originated in the United States was well established there, it started to take hold in Canada as well, Air Canada being the exception. I think it is clear that considering deregulation in the United States and among Air

Canada's competitors in this country, we must give Air Canada the same flexibility.

The statistics are eloquent. A few years ago, Air Canada ranked seventh in the world. Today, it ranks thirteenth. There is no doubt in my mind that during the past five years when deregulation has become the norm, Air Canada's status as a crown corporation has been an obstacle to its prosperity. It was in a position to purchase CP Air, but because of the government's veto, CP Air was purchased by Pacific Western.

So first of all, I don't think we have a choice. We must give the corporation the same flexibility as the rest of the industry. Second, I think it is a very good idea, if in its wisdom the government and our legislators, for specific social reasons, want a company, any company, to provide certain services to isolated communities, to have prices reflect the real cost and to subsidize the carrier directly.

About official languages, it seems to me this is now part of the Canadian Constitution, but it was a good idea to include the provision in the legislation governing this country's foremost carrier.

Finally, the only part I find rather surprising is the provision that the government reserves 45 per cent of the shares and at the same time publicly instructs the chairman of the board to vote with the majority of private investors. I fail to understand the rationale behind the government's approach, especially since the government announced that in the final instance all Air Canada shares will be offered for sale to the Canadian public.

To sum up my thoughts on the matter, honourable senators, I personally support this step by the government. I would even say we have no choice, if we want Air Canada to continue to expand and to compete on an equal footing with its competitors.

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

• (1430)

[*English*]

WESTERN GRAIN STABILIZATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Daniel Hays, Chairman of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Tuesday, August 16, 1988

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

NINTH REPORT

Your Committee, to which was referred the Bill C-132, An Act to amend the Western Grain Stabilization Act, has, in obedience to the Order of Reference of Wednesday, July 27, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

DANIEL HAYS
Chairman

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

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

CANADA GRAIN ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Daniel Hays, Chairman of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Tuesday, August 16, 1988

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

TENTH REPORT

Your Committee, to which was referred the Bill C-112, An Act to amend the Canada Grain Act and other Acts in consequence thereof, has, in obedience to the Order of Reference of Wednesday, July 27, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

DANIEL HAYS
Chairman

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

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

QUESTION PERIOD

AGRICULTURE

DISPERSAL OF BREEDING HERDS IN DROUGHT-STRICKEN AREAS—TAX DEFERRAL ON LIVESTOCK SALES

Hon. H.A. Olson: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate—or, perhaps, the deputy leader, who usually brings in delayed answers. He will recall that some time ago the government announced that a provision would be put into the Income Tax

Act to defer taxes on livestock sales in those areas where the drought situation required that there be a dispersal of the breeding herds.

I should like to ask the minister if he could find out and advise this chamber whether or not a directive has been issued by the Department of National Revenue spelling out the details and the terms and conditions on which this deferral can and will be made, or if the Department of National Revenue has issued a press release or any other communiqué that would give the producers the information they require to take advantage of this announcement.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall make inquiries of my colleague, Mr. MacKay, on that matter. The one press release that I have in front of me was issued by the Department of Agriculture on June 30 announcing the tax deferral for 1988. I shall inquire of Mr. MacKay to see what further action his department has taken.

Senator Olson: Honourable senators, the reason I am aware of that—and I am sure that many producers appreciate that—is that we are now approaching the season when producers will have to take some action, and they will want to know what to do in order to comply with it to their benefit.

ABORIGINAL PEOPLES

SELF-GOVERNMENT AND NATIVE LAND CLAIMS—GOVERNMENT POLICY

Hon. Charlie Watt: Honourable senators, I have a question for Senator Murray as the Leader of the Government in the Senate. My question deals with whether or not the government intends to announce an overall policy framework and objectives concerning the aboriginal peoples.

Senator Murray, this is a follow-up to my previous question, which I asked some time ago.

I am not referring to day-to-day policies to deal with the various issues, processes or problems. I am talking about policies and actions that would indicate how a Conservative government sees the aboriginal peoples in the future of Canada.

For example, free trade, privatization and the decentralization of government power provide us with a good idea of the government's vision for the future of Canada in a number of areas. Whether the government is right or wrong in these initiatives is not important in the context of my question. The point is that the government does have a vision for the future of the country in these matters.

However, when it comes to aboriginal matters, the government seems content simply to follow through on the policy initiatives that were left over by the previous administration. I am referring to the major policy initiatives to negotiate land claims agreements, to establish an aboriginal constitutional process, and to move towards greater aboriginal self-government. Some of those policies have to be renewed or replaced because they have become outdated and less workable.

Nevertheless, the government has yet to put forward its own policy initiative and its own vision of how the aboriginal peoples will be able to take their rightful place in Canadian society and within Confederation.

My question is: When can we expect the government to develop and announce the types of policies I am referring to?

● (1440)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend has read a prepared statement in which he has identified certain areas in respect of which he would like to have a response from the government indicating what the impact of some of these matters would be on the aboriginal peoples. I shall take the matter under advisement and try to bring in a reply to his question as soon as possible.

With regard to constitutionally entrenched self-government, the federal government left a proposal on the table in March of 1987. That proposal was supported by a number of provinces. Unfortunately, it did not have sufficient support from other provinces and from the representatives of the aboriginal groups to enable us to proceed with a constitutional amendment. That being the case, it seems to me that we need a new process. We have been meeting with representatives of the aboriginal peoples with a view to agreeing on a process that will eventually lead to agreement on a self-government amendment. I do not think there is anything that I can usefully add at this time.

Senator Watt: Honourable senators, I appreciate the fact that Senator Murray will follow up on my request. With regard to the constitutional process, as senators know, a certain set of issues was supposed to have been dealt with by way of constitutional amendment in the form of a resolution. I think the Government of Canada does have an obligation to the aboriginal peoples to live up to its commitments. The previous administration worked out specific issues that were to be dealt with in the future—matters having to do with self-government, an economic base, a land base, communications, transportation and things of that nature.

Within the aboriginal societies, honourable senators, there are a great many problems that will probably never disappear. I think that from time to time we should do everything in our power to try to tackle those problems and see whether we can come up with some solutions. In my opinion, after having been in Ottawa for the last three years, on a number of occasions, when aboriginal peoples have brought forward a problem or presented a solution to a problem, there has been a tendency to sweep the matter under the carpet. I think now is the time for all of us to take this matter seriously, to tackle these problems and to try to work towards finding solutions to them.

I am not suggesting to senators or to members of Parliament that we deal with every little problem that arises in aboriginal societies. There are, however, major issues that need to be addressed. We need to know where we belong. How do we deal with a society that might be slightly different from societies which now exist and have existed in the past? I think we

should examine closely ways in which the two societies can co-exist for the betterment of this country and for all of us.

Senator Murray: Honourable senators, I appreciate the points that the honourable senator is making, although I do believe they would be made more appropriately in a debate rather than during the oral question period. I simply advise him that the government does have a land claims policy, for example. This has led to an agreement in principle between the Government of Canada and the Dene nations, which I hope will be ratified before long. There have also been discussions on other matters with the Labrador-Inuit Association, with the Council of Aboriginal Peoples in the Yukon and so forth. There is a policy framework within which the government has been operating.

In any case, I will examine Senator Watt's opening statement in this exchange and see what response my colleague, Mr. McKnight, can make to it as soon as possible.

THE ENVIRONMENT

DEADLINE FOR ELIMINATION OF LEAD IN GASOLINE

Hon. Richard J. Stanbury: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate. Preliminary to my putting the question, perhaps I should remind honourable senators that the policy of the government is that lead in gasoline is to be eliminated by 1993. Last month, however, a congressional report prepared by the United States Department of Health and Human Services changed the basis of the understanding of the problems related to lead poisoning.

The Canadian determination of 1993 as the time at which lead will be eliminated in gasoline was based upon the dangerous level being 25 micrograms per decalitre, whereas the congressional report now states that the danger level is estimated to be at 10 to 15 micrograms per decalitre. This means that the basis upon which we have made our decision to eliminate lead from gasoline by 1993 is low by 40 to 60 per cent.

My question, then, is: Is the government making plans now or has it made a decision yet to bring forward the date at which lead must be eliminated from gasoline? I suggest that from these figures the date should be brought forward to approximately 1990.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I appreciate the statement of the honourable senator. The matter is now under consideration by the government. I shall ask my colleague, the Minister of the Environment, to prepare a report for the Senate.

[Senator Watt.]

TRANSPORT

SHIPMENT OF GRAIN THROUGH PORT OF CHURCHILL, MANITOBA

Hon. Gildas L. Molgat: Honourable senators, I direct my question to the Leader of the Government in the Senate in his capacity as the minister responsible for federal-provincial relations. It relates to what I presume is one of his responsibilities, which is to ensure fairness between the provinces, to the extent that he can do that.

My question has to do with the Port of Churchill. There has been put to the federal government a request—and this is backed by all of the parties in the province of Manitoba; there is unanimity among the provincial parties there—that the government endeavour to commit itself to moving some grain through the Port of Churchill this year. This is an urgent matter, because, as the honourable senator knows, the port opens in about the first week of August and has a very short shipping season, which ends in October. It is urgent that a decision be made in this regard.

The provincial parties have approached the minister responsible for the Wheat Board, who has refused to take any action in this matter.

My question is: First, has the minister received any communication from the Government of Manitoba in this regard or has he been in touch with that government? Second, would he be prepared to make the case with the minister responsible or with the members of cabinet? If nothing is done, honourable senators, and if the Port of Churchill does not have a shipping season this year, it is likely that it could be closed forever.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I discussed the matter with the Premier of Manitoba some time ago. More importantly, the Premier of Manitoba discussed it with the Prime Minister in the course of their meeting here a couple of weeks ago.

• (1450)

I seem to think that a letter concerning the Port of Churchill has gone from Mr. Benoît Bouchard, the Minister of Transport, to the Government of Manitoba, but I shall have to confirm that.

So far as the minister of state for the Wheat Board is concerned, I am not sure that it is accurate to say that he refuses to take any action, as Senator Molgat puts it. He, however, like all ministers, is subject to some limitations in the exercise of his responsibilities and the achievement of what he might consider desirable vis-à-vis the Canadian Wheat Board.

Having said that, I assure the honourable senator that it is no part of anybody's intention or desire to see the Port of Churchill suffer. There has, of course, been drought, and the amount of grains being shipped out of the country is not of a quantity, so far, to warrant very extensive use of that port. However, I shall ask for a further report from Mr. Mayer on the matter.

Senator Molgat: I shall wait for the reply of the minister.

WESTERN DIVERSIFICATION

ALLOCATION OF FUNDS TO MANITOBA FOR MUNICIPAL INFRASTRUCTURE—REQUEST FOR ANSWER

Hon. Gildas L. Molgat: Honourable senators, some time ago I asked the Leader of the Government in the Senate a question regarding the Western Diversification Fund and the very small amount of money that has been advanced to Manitoba. There was a request by the Government of Manitoba that a different approach be taken to some of the funds, and that was for infrastructure in certain municipalities.

The minister assured me that he would obtain the information. Has he received that information yet?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am aware that the matter is still under discussion between the Government of Manitoba and the minister responsible for the western diversification department, Mr. McKnight. I will ask Mr. McKnight whether he has anything further to report on the matter at this time.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have three delayed answers to questions. There was a question on July 5, 1988, by Senator Gigantès regarding Canada-United States Relations—Treatment of Canadian Circuit Boards by United States Customs. On July 19, 1988, there was a question by Senator Marsden regarding Paraguay, and a question by Senator Grafstein regarding Panama. I ask that these answers be printed as part of today's proceedings.

CANADA-UNITED STATES RELATIONS

TREATMENT OF CANADIAN CIRCUIT BOARDS BY UNITED STATES CUSTOMS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on July 5 last by the Honourable Philippe Deane Gigantès regarding Canada-United States Relations—Treatment of Canadian Circuit Boards by United States Customs.

(*The answer follows:*)

ATI Technologies of Scarborough, Ontario, produces high quality graphic circuit boards for use in IBM compatible computers. A number of ATI shipments have been detained by U.S. Customs, particularly in Buffalo for suspected copyright infringement. Under U.S. Customs procedures, the shipments will be released if, following evaluation, no infringement is determined to exist.

Officials have been working closely with the company as well as with appropriate U.S. authorities in both Buffalo and Washington with a view to resolving the firm's problems. The company maintains that no copyright infringement is involved.

While, from a policy perspective, we question the appropriateness of U.S. Customs procedures applicable to cases of suspected intellectual property infringement involving patents, copyrights or trade marks, it would not appear that U.S. Customs officials are exceeding their mandate or engaging in harassment in this instance.

FOREIGN AFFAIRS

PARAGUAY—STATUS OF SEÑOR HERMEN RAFAEL SAGUIER—GOVERNMENT KNOWLEDGE AND ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on July 19 last by the Honourable Lorna Marsden regarding Foreign Affairs—Paraguay—Status of Señor Hermen Rafael Saguier—Government Knowledge and Action.

(*The answer follows:*)

Señor Saguier has returned to Paraguay and is apparently circulating freely. In fact, he has appeared publicly on several occasions as he is campaigning for leadership of the "Partido Liberal Radical Authenticok" along with the other leader, Domingo Laino.

FOREIGN AFFAIRS

PANAMA—SAFETY AND SECURITY OF VICE-PRESIDENT—GOVERNMENT REPRESENTATION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on July 19 last by the Honourable Jerahmiel S. Grafstein regarding Foreign Affairs—Panama—Safety and Security of Vice-President—Government Representation.

(*The answer follows:*)

According to most recent information the former Vice-President of Panama, Dr. Esquivel is now not in hiding. He is currently working at his medical clinic and leading a normal life.

NATIONAL HEALTH AND WELFARE

NATIONAL WELFARE FELLOWSHIPS AWARDED FOR 1988-89 FOR DOCTORAL STUDIES

Question No. 44 on the Order Paper—**By Hon. Jack Marshall:**

14th June, 1988—With reference to Appendix II 1988-38 to the News Release from Health and Welfare Canada, dated June 2, 1988, announcing the National Welfare Fellowships awarded for 1988-89 for doctoral studies, (i) what is the list of all candidates who applied, by province; (ii) how were they selected; and (iii) what are the names of those responsible for the selection?

Reply by the Minister of National Health and Welfare:

(i) The names of the candidates who were not awarded the National Welfare Fellowships cannot be disclosed since these constitute personal information under Section 19(1) of the Access to Information Act. However, the number of applicants per province is as follows:

PROVINCE	NUMBER OF APPLICANTS
British Columbia	4
Alberta	4
Saskatchewan	2
Manitoba	2
Ontario	24
Quebec	5
New Brunswick	1

(ii) Candidates are ranked on merit by a seven person National Selection Committee appointed by the Minister and reflective of the social welfare field. Some considerations used by the Committee are: academic ability, intellectual curiosity, evidence of independent thought and analytic capability, activity in the profession, work experience and the quality of the formal study proposal itself.

(iii)

Name and Position	Affiliation	Representing
Dr. Marie Berlinguet Director	CLSC Sainte-Foy-Sillery, Sainte-Foy, Que.	Social Agency
Dr. Sheila A. Brown Vice-President (Academic)	Mt. Allison University Sackville, N.B.	Social Science Faculty
Dr. Glenn Drover Director School of Social Work	University of British Columbia Vancouver, B.C.	Canadian Association of Schools of Social Work
Professor Estelle Hopmeyer	McGill University Montreal, Que.	Canadian Association of Schools of Social Work
Professor Pat Kerans	Maritime School of Social Work Halifax, N.S.	School of Social Work
Mr. Stephen Lurie Executive Director	Canadian Mental Health Association Metropolitan Toronto Branch Toronto, Ont.	Social Agency
Dr. Pierre Roberge Director School of Social Work	Laurentian University Sudbury, Ont.	School of Social Work

REGIONAL INDUSTRIAL EXPANSION

COST OF REPORT ENTITLED "A STUDY CONCERNING FRESH FISH SHIPMENTS BY AIR FROM WESTERN NEWFOUNDLAND POINTS"

Question No. 46 on the Order Paper—**By Hon. Jack Marshal:**

5th July, 1988—With reference to the Report entitled "A Study Concerning Fresh Fish Shipments by Air From Western Newfoundland Points", dated December 1985, prepared by the Physical Distribution Advisory Service, Moncton, New Brunswick, and the Department of Regional Industrial Expansion, West Coast Regional Office, Corner Brook, Newfoundland, (a) what was the total cost of producing the Report; and (b) what is the break down of the cost of the Report in terms of (i) travel costs; (ii) witness expenses; (iii) professional services; and (iv) production of the Report?

Reply by the Minister of Regional Industrial Expansion and Minister of State for Science and Technology:

The Department of Regional Industrial Expansion provides the Physical Distribution Advisory Services with an annual grant, under which charges for the preparation of the Report were included.

(a) $155,620.02

(b)(i) $20,016.93

(ii) N/A

(iii) and (iv) $135,603.10

● (1500)

[*Translation*]

THE ESTIMATES, 1988-89

REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the Twenty-Sixth Report of the Standing Senate Committee on National Finance (Main Estimates, 1988-89), presented in the Senate on July 27, 1988.

Hon. Fernand-E. Leblanc: Honourable senators, last February the National Finance Committee received the federal government estimates and began studying them in accordance with the procedure established over the last ten years. Briefly we considered the Government Expenditure Plan by taking a closer look at Part I of the estimates. Then we shifted our attention to a specific program or activity described in one of the volumes which make up Part III of the estimates. This year the committee chose to examine the Matching Grants Program of the three research granting councils—namely, the Medical Research Council, the Natural Sciences and Engineering Research Council, and the Social Sciences Humanities Research Council.

We decided to study this field for two reasons. First, it is the extension of last year's work on post-secondary education which led to a number of comments on research granting councils and the state of research in Canadian universities.

Second, we knew that the federal government intended to evaluate the Matching Grants Program in 1989-90 and we thought our work on the comprehensive auditing formula might apply to this program. In that context we heard evidence, and I would urge all senators interested in cooperation between universities and industry to read the evidence heard during the proceedings.

The program is aimed essentially at having universities and the private sector work more closely and intensify university research.

The evidence heard by the committee led most members to come to disappointing conclusions:

First, the program is not suited to its objectives;

Second, there was a very negative reaction from the business community;

Third, there is insufficient data for determining whether the program convinced the business community to contribute more to university research;

Fourth, there is no provision in the program as to the cost to users of administering it.

However, we did not conclude that the program should be ended or amended. Rather, we chose to wait for the findings of the more in-depth study to be done next year, to see whether our concerns are justified.

However, we made a number of suggestions to those who will undertake that study:

That study should be very wide in scope, rather than limited to simply determining whether the program is meeting its objectives;

An over-all study of the program should deal with the degree of that program's acceptance in the area it is supposed to serve;

We have found that the business community and university researchers are not favourably inclined to the program;

The study should determine whether the program is indeed designed to reach its official goals. We found that the program is not well suited, as it provides no incentives to the industrial sector and research people.

The study should determine whether the program is generating unforeseen side effects;

And foremost, in my view, it should determine whether the program is geared to the problem or situation it is supposed to solve.

Therefore, honourable senators, I move that the report be concurred in.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(*See p. 4171*)

AIR CANADA PUBLIC PARTICIPATION BILL

REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

TUESDAY, August 16, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-EIGHTH REPORT

Your Committee, to which was referred the Bill C-129, An Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public, has, in obedience to the Order of Reference of Thursday , July 21, 1988, examined the said Bill and now report the same without amendment, but with the following comments:

In 1937, Air Canada, or Trans-Canada Airlines (TCA) as it was then known, was created by the government under the *Trans-Canada Airlines Act* as a subsidiary of Canadian National Railways to provide coast-to-coast air transportation. The early growth of the company came about largely through government assistance and direction; the most profitable routes were guaranteed and the company's operating costs covered. In exchange, the airline agreed to service unprofitable routes. This allowed Air Canada to grow into a world class-airline. Canadian Pacific, its chief competitor, was denied access to many routes and, in fact, it was not permitted to compete freely with Air Canada on the trans-continental routes until 1979.

In 1977 the enactment of the *Air Canada Act* established Air Canada as a separate Crown corporation and provided its first commercial mandate "to operate in accordance with sound business principles and in contemplation of profit". Since 1977, the company has not required financial assistance and has not been required to operate unprofitable routes.

On April 12, 1988, the government announced its intention to issue shares in Air Canada to the public. A number of reasons have been cited by both Air Canada and the government for moving the corporation into the private sector at this time. First, and perhaps most critically is that since 1980 the operating environment for North American airlines has changed dramatically. Deregulation has become the *de facto* environment under which the Canadian airline industry has conducted business, with this being formalized on January, 1988, when the new *National Transportation Act* was proclaimed.

In the new environment the airline industry is faced with increased competition and must respond more rapidly to changing market forces than had previously been the case. It is difficult for Air Canada to respond to these new conditions due to the restraints placed on it as a Crown corporation. At present, under the *Financial Administration Act*, Crown corporations are required to seek government approval for corporate and financial plans. Once shares are issued to the public, Air Canada and the local service carriers in which the Corporation has an equity position would be relieved of the reporting requirements of the *Financial Administration Act* providing the management of these companies with the flexibility required to operate in an intensely competitive environment.

Second, privatization would allow Air Canada direct access to equity markets, enabling it to acquire the capital required to grow and to finance its major fleet renewal program into the 1990's.

Third, privatizing Air Canada places all airlines in Canada on an equal footing. As private companies, Air Canada's competitors must pay market rates of interest on their debt issues and must compete for equity investment in the capital markets. These competitors regard the lower rate of interest carried by Air Canada debt and any increase in equity investment in the company provided by the government as a subsidy.

The major provisions of Bill C-129 include: the transfer of shares from the Minister of Transport to a Minister designated by the Governor in Council; the continuation of Air Canada under the *Canada Business Corporations Act* (CBCA); the imposition of certain restrictions on the company such as the maintenance of operational and overhaul bases in Montreal, Toronto and Winnipeg, as well as retaining Montreal as the head office location; the acquisition, holding and disposition, by the Minister, of shares in Air Canada; restrictions on foreign and individual share holdings; the sale by Air Canada of the shares; and the application of the *Official Languages Act* to the company.

A significant and unique feature of this privatization is the fact that the government intends to sell only about 45% of its shares in the primary offering to the public and put forth secondary

offerings at a later date. While this is not set out in the legislation, the government has made its intentions known on the matter through public policy statements.

In its consideration of Bill C-129, the Standing Senate Committee on Banking, Trade and Commerce heard from eleven groups of witnesses on August 2nd, 3rd and 4th, 1988.

In addition the Committee wrote to a number of municipalities in Canada and to Canadian Airlines International and Wardair. Written submissions were received from the latter two, both of which were filed as appendices to the Committee's hearings. The issues raised during the Committee's consideration of Bill C-129 are addressed in the following section of this report.

ISSUES

AIR CANADA'S PUBLIC POLICY ROLE

Some witnesses expressed the view that once privatized, Air Canada would no longer be able to carry out a public policy role on behalf of the government such as the provision of air service to remote or small communities. Air Canada, government officials and other witnesses contradicted this testimony, noting that Air Canada does not at present serve a designated public policy purpose, particularly since the enactment of the *Air Canada Act* of 1977, which directed the airline to act "in contemplation of profit".

In response to questions from the Committee, the Minister outlined policy instruments now available to this government to accomplish public policy objectives which in the past were addressed specifically to TCA/Air Canada. With respect to the provision of air transportation services to small and under-serviced areas, the Minister noted that the *National Transportation Act* already provides for government subsidies to ensure that such service is furnished while also keeping the cost transparent.

The Minister further noted that support for Canada's aerospace industry was available under DRIE and other economic development programmes and agencies as well as from the National Advisory Board on Science and Technology, which brings together researchers, scientists and technologists in industry and universities.

Concerning the use of Air Canada as an instrument to further promote bilingualism, clause 10 of Bill C-129 maintains the application of the *Official Languages Act* to the Corporation. Also, as a federally-regulated employer, Air Canada will continue to be subject to the application of the *Employment Equity Act*.

In sum, after Air Canada is privatized, all related public policy objectives may continue to be met through other legislative means.

OPERATIONAL & OVERHAUL FACILITIES

In testimony before the Committee, the International Association of Machinists and Aerospace Workers (IAMAW) voiced concern that the safeguards in Bill C-129 requiring the maintenance of operational and overhaul centres in Montreal, Toronto and Winnipeg could be undermined once Air Canada is privatized and needs to rationalize its operations. However, testimony from Air Canada officials made it clear that the corporation remains committed to maintaining maintenance facilities in these cities. Furthermore, withdrawal of the facilities from any of these centres would require a change in the legislation, since sub-paragraph 6(1)(d) of Bill C-129 is explicit in this regard.

It should be noted, however, that the legislation does not preclude the establishment of new bases in other Canadian cities.

While the legislation is explicit with respect to the maintenance of operational and overhaul centres in these three cities, a question was raised in the Committee regarding the definition of an "overhaul centre". Some witnesses warned that without an exact definition in the legislation, the Corporation would not be compelled to maintain a certain number of personnel and level of facilities at the overhaul centre in Montreal and Winnipeg. However, Mr. Pierre Jeanniot, President and CEO of Air Canada, assured the Committee that the term "overhaul" does indeed have a technical meaning in the airline industry. He stated that in order to constitute an overhaul centre, a base must have the capability of doing "C checks" and "D checks" on aircraft. These checks require heavy overhaul work in which the aircraft is stripped and the various systems re-examined. Mr. Jeanniot noted that a "C check" requires about 500 person-hours for a 727-type aircraft, while a "D check" takes approximately 15,000 person-hours. In order to have the capability of doing this kind of heavy airframe work, these centers would need to maintain the expertise and backup support shops required for these checks.

Mr. Jeanniot further stated that as overhaul work on the airline's 727s diminishes with the aircraft's gradual phase-out over a period of time, overhaul work on the new A-320s will be building up. The ratio of work carried out in Montreal and Winnipeg on the 727s and A-320s will be unchanged between these two bases.

SAFETY

Another issue raised by labour representatives was that of safety. The Canadian Union of Public Employees (CUPE) felt that once privatized, Air

Canada might be less safe than if it remained a Crown Corporation; that in the pursuit of profit the airline would be tempted to cut corners in the area of maintenance and reduce its margin of safety. The International Association of Machinists and Aerospace Workers (IAMAW) also felt that the current high margin of safety maintained by the airline would not be sustained in the future. According to these witnesses, the general level of safety in the rest of the industry would also be reduced since other private carriers now use Air Canada as the yardstick by which they measure their own safety standards.

The Committee received evidence that Canadian airlines' required safety standards set out in the *Aeronautics Act* and the *National Transportation Act* are among the highest in the world. Section 3 of the *National Transportation Act* requires that the "national transportation system meet the highest practicable safety standards".

The *Aeronautics Act* and its regulations also cover most aspects of airline safety. The Act was amended in 1985 greatly strengthening the law dealing with safety issues such as standards for airworthiness, air traffic services and navigational aids and medical reports for licenses. In addition, Transport Canada's enforcement powers have been increased and penalties for infractions have been strengthened. The *NTA* and the *Aeronautics Act* apply to Air Canada regardless of whether it remains a Crown corporation or becomes a private company. Aside from the legislation covering airline safety, the Committee was assured by Air Canada officials that safety is basic to their operations and that the airline would never compromise it. Furthermore they stated that this country's airlines, whether privately or publicly owned, follow very high safety standards. Indeed, Mr. Claude Taylor, Chairman of Air Canada, noted that he would rate Canada's two large airlines "equally in terms of their attitude, philosophy, and determination towards safety."

When he appeared before the Committee, the Honourable Don Mazankowski, P.C., emphasized that safety is fundamental to transportation legislation and noted that the preamble to the *National Transportation Act* contains words on the issue. He pointed out that several federal agencies now monitor safety for all federally regulated air carriers.

BILINGUALISM

Under clause 10 of Bill C-129, Air Canada will continue to be subject to the *Official Languages Act*. Some witnesses stated their belief that Air Canada had tried to gain an exemption from this Act and that these services would be diluted once the Corporation becomes privately held. In response, Air Canada officials stated that while they did have questions regarding the application of this Act, the company actively supports bilingualism. Indeed, according to officials, the bilingualism requirement is seen as a definite advantage to the Corporation.

In an appearance before the Legislative Committee of the House of Commons, an official from the Office of the Commissioner of Official Languages verified that the *Official Languages Act* will continue to apply to Air Canada after it is privatized.

Board of Directors

Bill C-129 provides for the election of a new Board of Directors at the close of the first annual meeting of shareholders of the Corporation after shares are issued to the public. Under sub-clause 11(2), such a meeting would be required to be held not later than six months following the end of the Corporation's financial year in which the share issue takes place.

Individual shareholders are limited under sub-paragraph 6(1)(a) of the Bill to holding, owning or controlling a maximum of 10% of the voting shares of the Corporation. According to testimony by Dr. Janet Smith, Deputy Minister, Office of Privatization and Regulatory Affairs, this provision is intended to encourage a wide distribution of the company's shares. However, concern was expressed by some members of the Committee that a widely held share distribution could lead to the company becoming management-controlled. It was suggested that protection of minority shareholders might be enhanced by providing for cumulative voting when electing directors of the corporation. Cumulative voting permits a shareholder to cast votes for a director equal to the number of shares held multiplied by the number of positions to be voted upon. Evidence submitted to the Committee by Dr. Smith indicated that cumulative voting is provided for under the *Canada Business Corporations Act* (CBCA) and would come into effect if a corporation specifically provided for it in the articles of the corporation. This evidence also indicated that it would not be necessary to provide for cumulative voting in Bill C-129, as it could be provided for when the corporation files its articles pursuant to the provisions of the *CBCA*. However, during the transition phase previous to full privatization, the government has agreed to vote its 55% share with the majority of the 45% balance of outstanding shares. As a result, a majority of the minority of shareholders will in fact elect the directors and, according to the evidence submitted by Dr. Smith, "it would appear questionable that anything further may be necessary or appropriate". Also, there are provisions in the *CBCA* which protect the interests of shareholders. Thus, department officials concluded that appropriate protection would be afforded minority shareholders without providing for cumulative voting of shares.

When he appeared before the Committee, Mr. Claude Taylor, Chairman of the Board of Air Canada, stated that the minority shareholders would be represented on the Board of Directors of the Corporation and methods of achieving this goal are being examined. With respect to the question of the balance between management and non-management directors, Mr. Taylor testified that his own suggestion is that there be only two management directors on the Board with the remainder being drawn from outside the corporation. The two management directors would be the Chairman, while the chairman is an officer of the company, and the President.

Privatization in Stages

While Bill C-129 places no limit on the proportion of the Corporation's shares which the government may dispose of in the initial offering, officials have indicated that it is their intention to sell up to 45% of the shares in the first tranche. Subsequent offerings would reduce the government's holding in the Corporation, leading eventually to total privatization of Air Canada. In the interim period between the initial and final offering, the government would maintain an ownership position in the Corporation. Some questions were raised by the Committee regarding the staged privatization process envisaged by the government.

First, officials were questioned on the rationale for limiting the initial sale to 45% of the Corporation's shares rather than offering the total float of the company's shares immediately.

When he appeared before the Committee, the Honourable Donald Mazankowski, stated that a policy decision was made to sell up to 45% of the shares initially, primarily to ensure that the sale was carried out in a prudent and orderly manner. The Minister noted that this distribution is a very large undertaking and the government wants to ensure that all Canadians who wish to participate will be provided with that opportunity. At the same time the government is seeking to obtain the optimum value for the shares that are distributed. Further, the Minister indicated that there was some flexibility with respect to the size of the initial offering. Indeed, if conditions warranted it, the government would look favourably upon the option of expanding the issue beyond the 45% target.

A second question raised by the Committee concerned the effect on share prices in the initial offering of the government maintaining temporary ownership of approximately 55% of the shares. Mr. D. Torrey, Vice-Chairman, RBC - Dominion Securities and the government's adviser in the matter of Air Canada's privatization, addressed this concern. While noting that the expectation of future share sales by the government may have some bearing on the value of the initial offering, he also observed that in a capital intensive industry such as the airline industry, the expectation of additional forthcoming share issues is "not too surprising". Mr. Torrey further noted that the government's publicized intention to vote its shares with the majority of the non-government-held shares will largely dispel concern in the equity market, if any exists, and some Canadians could, perhaps, take some comfort in the government owning a significant block of shares.

Air Canada's financial advisers, Morgan Stanley & Company and Warburg Securities, testified that they believe investors will feel comfortable with partial government ownership since the prospectus will contain the government's commitment to proxy its shares to the Chairman of the Board of Directors to vote in accordance with the will of the majority of private shareholders. The underwriters will deal with this aspect of the sale in the due diligence proceedings.

A final question regarding the staged privatization of Air Canada involved the effect on management decision-making of the government retaining a majority of the shares. Mr. Claude Taylor, Chairman of Air Canada, responded to this concern by noting that the government is committed to being an arm's length shareholder and the prospectus will contain this commitment. Further, Bill C-129 permits, and the government has stated that it intends, the eventual full privatization of the company.

Foreign Ownership

The *National Transportation Act* limits foreign ownership of transportation facilities to a maximum of 25%. Bill C-129 contains in sub-paragraph 6(1)(b) a similar provision designed to prevent non-residents from holding, beneficially owning, or controlling more than 25% of the voting shares of the company. For greater certainty, sub-paragraph 6(1)(c) of the Bill was amended in the House of Commons Legislative Committee. This would limit the aggregate percentage of votes cast by non-resident shareholders to 25% of the total shares of the company.

Mr. Taylor noted that the government has stated that there would not be a foreign offering of the shares in the first issue. Also, the company's financial advisers indicated to the Committee that they had advised that the company's shares initially be listed only on the Montreal and Toronto Stock Exchanges. When foreign shareholdings increase to a sufficient size, consideration would be given to listing on foreign stock exchanges.

A submission to the Committee by the Canadian Union of Public Employees suggested that a future government might change the restrictions on foreign ownership thereby permitting a foreign takeover of Air Canada. The impetus for such change, according to

this submission, would come from pressure on the Canadian government as a result of the Free Trade Agreement (FTA).

This Committee received no evidence to corroborate this allegation but the following points should be noted. First, the present government can do no more than codify the ownership restrictions in this legislation. It cannot bind the hands of future legislators should they decide to change the law.

Second, under the FTA, existing restrictions on foreign ownership in the transportation industry are grand-fathered and the sale of Crown corporations is exempt from any national treatment obligations.

Employment Issues

The Committee heard testimony from officials of three of the unions representing Air Canada employees. These unions included the Canadian Union of Public Employees (CUPE), the Canadian Auto Workers (CAW), and the International Association of Machinists and Aerospace Workers (IAMAW). In addition, the Committee heard evidence from the Canadian Labour Congress (CLC).

The officials from these unions were unanimous in their opposition to any sale of Air Canada shares to the public and they raised a number of employment-related concerns. Specifically, it was suggested that the privatization of Air Canada would affect employees adversely if the Corporation took the following actions: the transfer offshore of all financial reporting, invoicing and data processing and the increased contracting out of work to foreign nationals; withdrawal from certain Air Canada routes in favour of regional carriers resulting in lower-paid non-unionized jobs for employees; and use by the Corporation of the employee pension fund surplus.

In response to these charges, Air Canada officials made the following points in testimony before the Committee. First, the finance and accounting department are located in Winnipeg because it is cost effective to operate there and the company is continuing to work to keep Canadian systems and processes efficient in order to maintain jobs in Canada. Also, there are advantages to being a good corporate citizen and the company intends to continue this practice whether as a public or a private corporation.

Second, in the last five years station closings and downsizings have affected a relatively modest number of employees (about 80 people) with between 80%-90% electing to stay at Air Canada and move with company assistance to another station. Some of the remaining number accepted separation packages and retired while less than half a dozen went to another carrier. In many cases the regional carriers which take over Air Canada routes have unions of their own. According to Air Canada officials, starting salaries at other carriers are comparable with those of Air Canada and in some cases are somewhat higher, although Air Canada's top rates are higher than the top rates of the regional carriers, depending upon the job category.

Third, the company's pension plans have always been separate from those of the federal government and must conform to the same standards and practices as those applied in private sector plans. *The Pension Benefits Standard Act* of 1985 requires a corporation such as Air Canada to have an actuarial surplus of 25% of the liabilities and obligations of the fund, before applying for a withdrawal of funds. This would amount to about $500 million of true actuarial surplus in Air Canada's case. (At the last evaluation the Corporation had an actuarial deficiency of $127 million). If the Corporation did have an actuarial surplus in excess of 25% it could apply to obtain the amount that was in excess of 25% of the obligations. However, the Corporation would be required to apply to the Department of Financial Institutions, and its employees and the unions would have to be advised of that. Representatives of the employees would have the right to be heard on the matter. It should also be recognized that *The Pension Benefits Standards Act*, does not permit a reduction in contributions if an unfunded liability exists in the pension plan.

Aircraft Procurement

Several submissions to the Committee suggested that Air Canada still had a public policy role to fulfill in the form of support for the Canadian aerospace industry through aircraft purchases. In the view of these submissions, such a role would be abandonned once Air Canada is privatized.

However, other evidence the Committee heard indicated that Air Canada was not currently receiving any outside direction regarding the type of equipment it purchased. For instance, in considering its recent purchase of A-320 aircraft, Mr. Jeanniot, President of Air Canada, stated that the company was not asked by the government to consider industrial offsets for Canada. Mr. Jeanniot indicated that requiring such offsets would not be in conformity with the GATT. Subsequent evidence showed that Article 4 of the Agreement on Trade in Civil Aircraft in the Texts of the Tokyo Round Agreements requires that signatories permit purchasers of civil aircraft to be free to select suppliers on the basis of commercial and technological factors.

CONCLUSION

The *Air Canada Act* of 1977 effectively placed the airline at arm's length from the government by

instructing the corporation to conduct its business affairs with prudence, diligence and in "contemplation of profit". The coming into force of the *National Transportation Act* (NTA) in January 1988 has further enhanced the need for corporate flexibility in order to remain competitive in a deregulated environment. In addition to providing such flexibility by removing from the Corporation the reporting requirements of the *Financial Administration Act*, Bill C-129 would permit the company to raise in equity markets the capital needed for equipment purchases.

Some of the concerns raised by witnesses such as those respecting airline safety and job security seem to be derived from the competitive conditions fostered by deregulation, rather than from the provisions of Bill C-129. With regard to safety, extremely high standards have been set under the *NTA* and the *Aeronautics Act*. Bill C-129 does not change these standards and this Committee was further reassured by the commitment of Air Canada officials to continue to meet and exceed these safety standards.

On the issue of job security, Mr. Taylor, in testimony before the Committee, put it most succinctly when he stated that "the strongest guarantee for job security in any business is growth, and the approval of Bill C-129 will give us the opportunity to grow and to guarantee jobs for people".

With respect to concerns about the company's continuing commitment to bilingualism, maintenance of overhaul centres, retaining the head office in Montreal and foreign ownership of the airline, these restrictions are dealt with explicitly in Bill C-129 and cannot be altered without further legislative action.

Concerning employee pensions, these will remain protected under the *Pension Benefits Standards Act*. Employees will also be offered the opportunity to participate in the company directly through an employee share offering.

In testimony before the Committee, the Minister confirmed the government's statement of policy requiring the government to proxy its shares to the Chairman of the Board to vote in accordance with the desires of the majority of the private shareholders. The Minister also confirmed that this statement of policy would be contained in the prospectus of the share offering. The Committee feels that this is a skillfull way of managing the issue of government majority ownership in the Corporation which might have been of concern to some investors.

Finally, it is clear from the evidence received by this Committee that relevant public policy objectives can continue to be met once Air Canada is privatized. Provision of air service on uneconomic routes is no longer the exclusive responsibility of Air Canada, and the *NTA* permits the payment of subsidies to any airline for this activity. Regarding aid to Canada's aerospace industry, a number of policy tools are available, including DRIE and other economic development programs.

IAN SINCLAIR
Chairman

THE SENATE

Wednesday, August 17, 1988

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

Prayers.

NATIONAL PARKS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Earl A. Hastings, Chairman of the Standing Senate Committee on Energy and Natural Resources, presented the following report:

Wednesday, August 17, 1988

The Standing Senate Committee on Energy and Natural Resources has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred the Bill C-30, An Act to amend the National Parks Act and to amend An Act to amend the National Parks Act, has, in obedience to the Order of Reference of Thursday, 28th July, 1988, examined the said Bill and has agreed to report the same without amendment.

Respectfully submitted,

EARL A. HASTINGS
Chairman

He said: In presenting this report, honourable senators, I should like to make a brief observation with respect to two drafting errors that were made in the preparation of the bill. They occur in clause 4. Draft section 5(1.1) provides:

> The Minister shall, within five years of the proclamation of a park, under this Act or any other Act of Parliament, table in the House of Commons a management plan . . .

et cetera. Draft section 5(1.3) says:

> The Minister shall review the management plan of a park every five years and shall table any amendments to the plan with the plan in the House of Commons.

These two sections were drawn to the attention of the minister in our hearings, and he responded as follows:

> This is a case of an exercise in stupidity. I do not know exactly how it came about, but presumably it is an error. Those sections ought to have referred to "Parliament".

Later on he said:

> In any case, I am advised by my legal experts that all I need do is state here for the record that a mistake was made and that the original intent was to have those subsections use the word "Parliament", not the words "House of Commons"; and that by so stating it is enough to effect the relevant change without the need for an amendment.

Also appearing before the committee was Mr. Michael Porter, Director of Policy Planning and Legislation, National Parks, Department of the Environment. He stated:

> We in the department agree that this is an oversight, that there was no intention to draft the clause in that way and that it was done in the heat of committee and passed quite quickly. I have asked our legal advisers to look at the resolution of it. Provided that this committee were to make a statement that it was, in fact, an oversight—and that would have the agreement of our department; we have not briefed our minister, but I do not think there would be any problem—under the next periodic review of the Miscellaneous Statute Law Amendment Act, they would be willing to correct it based on that statement. If that were to happen—and I actually have a prepared statement that I had hoped a senator could make today—it would be sufficient to trigger the revision of the legislation at the next review, which I understand takes place every few months.

Honourable senators, in light of the commitment to the committee that the act will be amended and that it will substitute for the words "House of Commons" the words "both houses of Parliament", your committee is prepared to recommend the bill without amendment and thus avoid any dilly-dallying.

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

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

"WE GAVE TOO MUCH AND WERE NOT GIVEN ENOUGH"

NOTICE OF INQUIRY

Hon. Philippe Deane Gigantès: Honourable senators, I give notice that on Wednesday next, August 24, 1988, I shall call the attention of the Senate to the subject "We Gave Too Much and Were Not Given Enough".

Senator Frith: Another cliff-hanger!

QUESTION PERIOD

[*English*]

UNITED NATIONS

IRAN-IRAQ BORDER PEACEKEEPING CONTINGENT—SHARING OF COST

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government in the Senate whether Canada has entered into an agreement with the United Nations, or any other nations, to help pay the costs for the peacekeeping effort that Canada is making on the Iran-Iraq border. I know that all honourable senators will join in welcoming the end of hostilities between those two countries, and I am sure we all agree that Canada will play an important part in the surveillance of the cease-fire. However, with respect to a similar experience in the not so distant past, I think that Canada has been called upon, over the past 23 years or so, to pay a far higher share of that operation than was originally intended.

I am not trying to make the argument that that is sufficient reason to disqualify the effort, but, because I have not seen the matter reported anywhere, I should like to know whether other nations, particularly any of those under the auspices of the United Nations, will help pay the cost of the 500 or so men and of the facilities that will be employed.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no information on the financial arrangements to which the senator refers. I shall ask for a report on the matter.

JUSTICE

PROSECUTION OF NAZI WAR CRIMINALS—STATUS

Hon. Jerahmiel S. Grafstein: Honourable senators, yesterday the Deputy Leader of the Government in the Senate tabled exchanges of notes, Sessional Paper No. 332-1011 and Sessional Paper No. 332-1012. The first was a note between the Canadian Embassy and the Federal Secretariat for the Socialist Federal Republic of Yugoslavia relating to the prosecution of Nazi war criminals. A similar memorandum, dated June 7, which was a memorandum of understanding between the Department of Justice of Canada and the Minister of Justice of the Polish Republic relating to the prosecution of Nazi war criminals, was also tabled.

Can the Leader of the Government in the Senate advise us when we might expect prosecutions to be commenced against Nazi war criminals in Canada?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators, I cannot.

Senator Grafstein: Does the Leader of the Government in the Senate have any indication whether or not prosecutions will happen before the turn of the century?

Senator Murray: Honourable senators, the present government has nothing to apologize for in its treatment of that matter and has moved forward far more expeditiously than its predecessors did.

The honourable senator will be aware that these matters are under consideration by the Department of Justice. It would be totally inappropriate for me, or any other minister except my colleague the Minister of Justice, to try to extemporize on these matters during the oral Question Period.

Senator Grafstein: Would you ask your colleague, the Minister of Justice, to advise us, through you, what the status is of these prosecutions?

Senator Murray: Honourable senators, I shall ascertain what information, if any, the Minister of Justice can properly convey to the Senate on that matter at this time.

Senator Grafstein: For the edification of the Leader of the Government in the Senate, I wish to say that I do not raise this as a partisan matter; I raise it as a question of national interest. I do not malign the good intentions of the government. I understand the delicacy of this matter, both as a question of law and as a question of practice. However, I think it is of interest to some members of our national community, and I think it would be of interest to this chamber.

CANADA-UNITED STATES RELATIONS

TRADE—U.S. TARIFF ON CANADIAN SHAKES AND SHINGLES—GOVERNMENT ACTION ON SUBMISSION TO INTERNATIONAL TRADE COMMISSION

Hon. Jack Austin: Honourable senators, I should like to ask the Leader of the Government in the Senate a question with respect to the 35 per cent tariff on cedar shakes and shingles, which the United States imposed on Canada unilaterally in June of 1986. Under this order, the tariff is scheduled to fall to 20 per cent in September of this year and later to 8 per cent, before being phased out entirely in 1991.

The U.S. Coalition for Fair Canadian Lumber Imports—that is the name they use for themselves, and I do not take responsibility for it—is now arguing that the tariffs should be continued at 35 per cent indefinitely and has put that submission before the International Trade Commission of the United States, which plans to review the tariff later this month or in early September.

Will the Leader of the Government tell us whether or not the government is taking energetic action to represent the Canadian shakes and shingles manufacturers, most of whom are in British Columbia, in opposing any extension of the 35 per cent level? Has the government been discussing this matter with those manufacturers in British Columbia and with the provincial government, and can a position be disclosed to the Senate at this time?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall ask my colleague the Minister of International Trade for a report on that matter.

HUMAN RIGHTS

JAPANESE CANADIANS—GOVERNMENT APOLOGY AND COMPENSATION—STATUS OF NEGOTIATIONS

Hon. Jerahmiel S. Grafstein: I have another question for the Leader of the Government in the Senate. I believe it was last week that the U.S. Congress—both the House of Representatives and the Senate—passed a bill, which is now before the President, respecting individual compensation to Americans of Japanese descent and an apology by the American government for acts taken by it towards that community during the Second World War.

As I have pointed out to this chamber in the past, the acts taken by the Canadian government of the day against Canadian citizens of Japanese descent exceeded the period of the Second World War and went right on to 1947 or 1948. In light of those circumstances, in light of the fact that the Prime Minister, when he was Leader of the Opposition, made a promise for individual compensation, and in light of the fact that we have still not heard, after four years, any concrete advice from the Leader of the Government in the Senate as to the status of negotiations, if any, is he now prepared to advise us, before the calling of an election, when or if we might achieve some satisfaction on these long-standing questions?

• (1410)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as I reported to the house earlier, there have been meetings on this matter within the past while between representatives of the Japanese-Canadian community and the Minister of State for Multiculturalism. I can only tell the honourable senator that the entire issue is still under consideration by the government.

CANADA-UNITED STATES FREE TRADE AGREEMENT

SOFTWOOD LUMBER PRODUCTS—GRANDFATHERING OF MEMORANDUM OF UNDERSTANDING

Hon. Charles McElman: Honourable senators, I have a question for the Honourable Leader of the Government in the Senate.

I notice from a pamphlet put out by the Department of Industry, Science and Technology that the memorandum of understanding of December 30, 1986, concerning softwood lumber products has been grandfathered under the Free Trade Agreement. It says that the new dispute-settlement mechanism is expected to provide greater protection from any future arbitrary and unfair application of U.S. trade laws.

Could the Leader of the Government in the Senate advise why this would be grandfathered in the Free Trade Agreement?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I cannot do that today; I do not have notes on that matter before me. I recall that that was done at the time the agreement was signed, but I shall have to ask for a more comprehensive explanation from the minister.

[Senator Murray.]

Meanwhile, I understand that the Foreign Affairs Committee of the Senate is continuing its consideration of the treaty, and I would invite my honourable friend to take advantage of any early opportunity to try to delve into that matter.

Senator McElman: I appreciate the suggestion of the Honourable Leader of the Government in the Senate, but I suggest to him that when questions are put here in this house with respect to government policy in the Free Trade Agreement it would be helpful if the answers could be given here.

Senator Murray: I appreciate that, and I will attempt to obtain a statement from Mr. Crosbie.

We will have an opportunity soon, of course, to discuss the matter at greater length when the bill comes to the Senate and receives the careful consideration that it deserves from honourable senators.

Senator Frith: "Greater length"—well put, sir!

COMMUNICATIONS

PURCHASE OF FOSTER ADVERTISING BY U.S. CONGLOMERATE—USE OF FOSTER ADVERTISING IN PROGRESSIVE CONSERVATIVE CAMPAIGN

Hon. Keith Davey: Honourable senators, I am sure that the Leader of the Government in the Senate is aware that an American advertising conglomerate has purchased Foster Advertising.

An Hon. Senator: Shame!

Senator Davey: Foster Advertising is a premier advertiser of this government. Will the government sever its advertising relationship with Foster Advertising, which has become an American advertising agency?

Senator Perrault: Advertising American!

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I had understood that an American interest to purchase MacLaren, which is an agency—

Senator Davey: They purchased that as well.

Senator Murray: Yes. I wonder if my honourable friends will sever their connection with MacLaren.

The short answer to the question is that I am not aware that that transaction has been completed.

Senator Davey: I will make sure that I send you a copy of the *Globe and Mail* of this morning, because it is in the "Report on Business" section. I am sure it is accurate.

You might also answer a supplementary question, and that is: Will the government involve Foster Advertising in the impending Progressive Conservative campaign advertising?

An Hon. Senator: Shame!

Senator Murray: Honourable senators, that is not a matter to which my ministerial responsibility extends. While I have no

official information about the reported purchase of Foster Advertising by United States interests, it is still my impression, and perhaps it is superficial, based upon newspaper reports, that the transaction has not been completed.

AIR CANADA PARTICIPATION BILL

THIRD READING

Hon. William M. Kelly moved the third reading of Bill C-129, to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public.

Motion agreed to and bill read third time and passed.

WESTERN GRAIN STABILIZATION ACT

BILL TO AMEND—THIRD READING

Hon. Efstathios William Barootes moved the third reading of Bill C-132, to amend the Western Grain Stabilization Act.

Motion agreed to and bill read third time and passed.

CANADA GRAIN ACT

BILL TO AMEND—THIRD READING

Hon. Mira Spivak moved the third reading of Bill C-112, to amend the Canada Grain Act and other acts in consequence thereof.

Motion agreed to and bill read third time and passed.

[*Translation*]

QUEBEC COURTS AMENDMENT BILL

SECOND READING

Hon. Jacques Flynn moved the second reading of Bill C-145, to amend various acts to give effect to the reconstitution of the Quebec Provincial Court, Court of the Sessions of the Peace and Youth Court as the Court of Quebec.

He said: Honourable senators, this bill is neither important nor complex. I would even be so bold as to say it is straightforward, although previous experience has made us wary of making such statements.

The bill amends nine federal acts to allow for changes that were introduced in the structure of the courts in the Province of Quebec by a recent act of the legislative assembly.

As we know, under subsection 92(14) of the British North America Act, 1867, the creation and administration of courts both of civil and criminal jurisdiction is a matter for the provincial legislatures and governments, with the exception, of course, of the Supreme Court and the Federal Court, the latter because it is exclusively concerned with federal, and not civil or criminal matters. The provinces establish all the courts. However, judges of the superior court are appointed by the federal government. As for the so-called provincial courts, whose judges are appointed by the provincial governments, in Quebec these courts covered, until quite recently, three different jurisdictions: the Provincial Court as such, with jurisdiction over civil and criminal matters; the Court of Sessions of the Peace, with jurisdiction over criminal matters only, in large centres; and the Youth Court, which has jurisdiction over family matters and also over offences involving young people.

Recently, the legislative assembly voted unanimously in favour of using these three courts to create a single court called the Court of Quebec. There are divisions, however, since the chief justice of the court assigns judges from the former courts to various jurisdictions within the Court of Quebec, which includes, as I said before, all jurisdictions covered by the so-called provincial courts other than the superior court. When a federal act assigns jurisdiction to one of the courts or one of its judges, the courts are mentioned by name. Now that we only have the Court of Quebec, references to the Provincial Court, the Court of Sessions of the Peace or the Youth Court must be removed to indicate that the Court of Quebec now has jurisdiction.

Hon. Royce Frith (Deputy Leader of the Opposition): Are there several divisions?

Senator Flynn: No, there are not. From now on, in federal acts the reference will be simply to the Court of Quebec, instead of to the court or courts that are now under the umbrella of the Court of Quebec. This is a purely technical change. For instance, when an act refers to the Court of Sessions of the Peace, the words Court of Sessions of the Peace are replaced by Court of Quebec. When legislation refers to the Provincial Court, this is again replaced by the Court of Quebec. When a federal act refers to the Youth Court, here again, the term is replaced by Court of Quebec.

● (1420)

Nine laws are affected by these amendments, nine laws that refer to the courts as they existed before the Quebec National Assembly passed the bill I just mentioned. So these amendments are being proposed, of course, to conform to the changes that the legislature made to the structure of the so-called provincial courts other than the superior court and the Quebec Court of Appeal.

The purpose of this bill is simply housekeeping. That is why I said at the beginning that it was neither an important nor a complicated bill, but I did not go as far as to say it was simple.

I recommend passage of this bill. If you wish, honourable senators, and it passes second reading, I will move that it be referred to a committee. In fact, I do not really see the need for a committee to deal with this because the amendments are purely technical and the committee would learn nothing more than what one can read in the bill itself.

Senator Frith: Honourable senators, second reading involves the principle of the bill. For the reasons stated by Senator Flynn, it seems very clear to me that we should support the principle of this bill on second reading.

As Senator Flynn suggested, this bill is simple and not complicated. The fact that a bill had not been studied at length

in the other place was until recently a sort of warning for us. For this reason, I prefer that it be referred to the committee. Sending it to committee is a matter of removing any doubt, more than anything else.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Flynn, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[*English*]

PRIVATE BILL

REGIONAL VICAR FOR CANADA OF THE PRELATURE OF THE HOLY CROSS AND OPUS DEI—CONSIDERATION OF REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Neiman, seconded by the Honourable Senator Cottreau, for the adoption of the Twenty-First Report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-7, An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei, with two amendments) presented in the Senate on 25th May, 1988.—(*Honourable Senator Lang*).

Hon. Daniel A. Lang: Honourable senators, I note that the sponsor of this bill and many of his colleagues are deploring the length of time that this bill is taking to pass through this chamber. However, I should like to remind them that at one time I sponsored a private member's public bill—not a private bill but a private member's public bill—which involved trying to remove an anomaly in the Railway Act, and it took me 12 years and the approbation of four ministers of transport to do so. I beg the indulgence of my colleagues.

Honourable senators, because of the time-lag I should like to review the nature of the institution or person presenting this petition for the enactment of this bill. First of all, we must remember that in the preamble of the bill itself and in the evidence before our committee it was self-declared as a secular—I emphasize the word "secular"—jurisdictional institution. This organization has been active in Canada since 1957 and has been functioning under the Quebec Corporations Act. The reason given by the petitioner for the application was that it required a new status in law because of a change in canonical law. That does not strike me as a very convincing reason for creating a new legislative enactment.

This organization is now asking to be incorporated as a "corporation sole". I would put those words in quotation marks, because that is an anachronistic form of incorporation. It is petitioning in that form rather than applying for incorporation as a non-profit corporation under the Canada Business Corporations Act, which, as it now stands, makes no provision for the so-called "corporation sole". The petitioner says that the Canada Business Corporations Act requirement that there be three members of the board is incompatible with the canonical law requirements to which it must adhere.

[Senator Frith.]

● (1430)

These arguments are brought forward to persuade the Senate to enact this legislation. I would remind honourable senators that the corporation sole is a rather ancient concept from the common law used mainly by the Church of England with regard to its bishoprics. Of course, the idea was that the corporation sole would hold property, sign contracts, incur debts and so on, and that, upon the decease of the officeholder, those assets or liabilities would not adhere to his or her estate but, rather, to the corporation itself. In that sense, honourable senators can see the rationale for it in times gone by.

Corporations sole, for religious or non-profit organizations, are not provided for in any law of Canada of general application. It has been argued before the committee and here in this chamber that we in Canada have incorporated 20 such corporations sole since Confederation. Those 20 corporations sole related to religious or non-profit organizations. It is correct that we have done that, and there is no reason we should not do so again; but in my research I went back and looked at those 20 bills put through the Senate and found that all of them applied to a "recognized church".

Is Opus Dei a recognized church in the conventional sense of our precedents? My submission is that it is not. Opus Dei, by its petition and by the preamble of the bill, is a secular—I underline the word "secular"—jurisdictional institution. Therefore, what we have done before in this area provides no precedent for our action today. To extend such a dubious precedent to a secular institution, to my mind, and for your consideration, would create a new and dangerous precedent, a precedent which I think, honourable senators, we must try to avoid at all costs.

If the very competent report of the Standing Senate Committee on Legal and Constitutional Affairs were reread by honourable senators, they would find that, by its words, it does not accept as a valid reason for enacting this bill the necessity of conforming with canon law.

I would love to see what would happen south of the border if such an idea were brought before Congress, so steeped, as they are, in the separation of church and state. In fact, the whole idea of passing such legislation would be absolutely abhorrent to them. I am reminded that there was a third party which ran in a general campaign there, the Anti-Masonic Order. That party created enough interest throughout the United States that there was a change in the presidency from the then federalist party to what we would call provincialists or the southern party.

The Canada Business Corporations Act is not, as it now stands, compatible with canonical law; or, to put it the other way round, canonical law is not compatible with the Canada Business Corporations Act.

The committee is very firm in saying that the Senate's decision in this matter must be made on the basis of Canadian

general law and practice. I completely affirm that position. I do not think it is the job of the Senate to permit private persons to evade the general public law by petitioning a public body such as the Senate and the House of Commons for special privileges through special legislation.

● (1440)

I refer to the conclusion of the committee report, where it says:

> The Committee feels very strongly that incorporation applications such as the one before us should be dealt with by means of a general statutory framework, not in the exercise of some vestigial jurisdiction of the Senate to pass private legislation.

I might add parenthetically: particularly by such an esoteric means as the corporation sole.

Honourable senators, when I was first appointed to the Senate many years ago, some senators will recall that we had a committee in the Senate called the Divorce Committee. That committee used to churn out divorces by the hundreds every year. We used to start at three o'clock, and I can remember that the dear old chairman of that committee used to come in and start to read them off, and, if he succeeded without being stopped, it would take the first hour of the sitting. It took us years to get out from under the divorce jurisdictional problem in order to have those divorces handled where they originally should have been handled—in the courts. Thousands of man-hours were wasted as a result, but it took us years and years to shake off that problem.

In those days we also had many private bills. We had to incorporate loan companies, mortgage companies, banks and trust companies. Much of our time was devoted to those matters, although at that time, I admit, the volume of public legislation passing through this place was not as great as it is today and because of that we were able to manage. Fortunately, over the years those areas of responsibility have been passed to where they belong, namely, to the courts and to the administrative level.

I would hate to see the passage of this bill taken as a signal to start regenerating a process from which we have been trying to extricate ourselves for the last 20 years, namely, giving to a non-church, a private person or a jurisdiction the ability to shackle us with responsibility for passing legislation to accommodate, of all things, something such as a change to accommodate canonical law.

If we did pass this bill, we would not be following a precedent, we would be establishing a precedent—a precedent that I am afraid might lead to another precedent following on another precedent, and we might find ourselves regressing to where we were 30 years ago.

In short, the so-called precedents given as a reason for proceeding further on this bill are not precedents. Secular jurisdictions, such as this organization, must operate through general legislative enactment like everyone else in this country. A change in canon law cannot justify abrogating that principle through the enactment of private legislation.

I am sure that the officers of Opus Dei, who have operated very successfully in this country for some 30 years, are sufficiently ingenious to continue on as they have in the past under one form or another that does not require legislative action by a public body such as the Senate of Canada and, ultimately, the House of Commons.

Accordingly, from my examination of the procedures of this house and the committee, I strongly urge the Senate to reject this legislation, both in the interests of the rule of law generally as it applies to all people and also in the Senate's own interest, so that we are not made use of by private interests, who, in fact, should be able to operate without our legislative blessing.

Some Hon. Senators: Hear, hear!

On motion of Senator Frith, debate adjourned.

LATIN AMERICAN PARLIAMENTARY MEETING ON ENERGY AND PETROLEUM

SECOND ANNUAL MEETING, BOGOTA, COLOMBIA—DEBATE ADJOURNED

Hon. Earl A. Hastings rose pursuant to notice of Wednesday, July 13, 1988:

> That he will call the attention of the Senate to the Second Annual Latin American Parliamentary Meeting on Energy and Petroleum, held at Bogota, Colombia, from 3rd to 10th July, 1988, and to the participation of the members of the Standing Senate Committee on Energy and Natural Resources.

He said: Honourable senators, in speaking to the inquiry in my name, I wish to draw to the attention of honourable senators the participation of the Canadian delegation from the Canadian Senate at the Second Annual Latin American Parliamentary Meeting on Energy and Petroleum. The attendance of the Canadian delegation was triggered by an invitation extended to the Standing Senate Committee on Energy and Natural Resources by His Excellency the Ambassador of Argentina on behalf of Dr. Guillermo Tello Rosas, National Deputy and President of the Commission on Energy and Petroleum of the Honourable Chamber of Deputies of the Argentine Republic.

● (1450)

The conference was held in Bogota, Colombia. The delegation of the Canadian Senate consisted of the chairman of the committee, myself, with the Honourable Senator Thomas Lefebvre and the Honourable Senator Gerald Ottenheimer, accompanied by Timothy Wilson acting as clerk. Honourable senators, I think I can modestly say that it was a singular honour to this chamber that one of the committees of the Senate of Canada should have been invited to participate in this conference, invitations having been extended only to the Organization of American States, the United States of America, Canada and the countries of the European Common Market.

The purpose of the conference was to afford parliamentarians an opportunity to review current energy issues from the world viewpoint, especially with respect to the Latin American framework and with particular reference to future impact on regional economies. The conference did attempt to prepare a comprehensive assessment of the possibilities of future cooperation between countries with respect to commercial relations, technology, legislative proposals and investment opportunities.

There are serious problems facing the region, as there are facing all regions, with respect to energy. In these countries it is the outflow of capital used for debt servicing that may deprive them of investment funds. Stagnant economic growth could raise unemployment and result in a shortage of basic goods and in severe inflation. In addition, political rivalries may pose an increasing threat to the merging democracies of the region, notably in Peru and Argentina.

The work of the conference was accomplished in working sessions held in the Chamber of Deputies of the Capitole, with resource people and parliamentarians sharing their views and concerns through debate and discussion. Cooperation and consensus was the theme as parliamentarians with different political philosophies from countries of different interests came together. As a result, notwithstanding the differences in political philosophy, there was an appreciation of each other's problems and, more importantly, the establishment of bridges of understanding.

Honourable senators, the region we are discussing extends from Mexico in the north to Argentina and Chile in the south, and it includes numerous, small, Caribbean island-states. It covers a total of 20.5 million square kilometres, or 15 per cent of the world's surface. The total gross national product of the region was approximately $630 billion U.S. in 1984, or 6 per cent of the total world GNP.

The largest economy in the region is that of Brazil, with a gross national product of $198 billion, or 31 per cent of the region's total GNP, followed by Mexico, which had a GNP of $165 billion in 1984. The four leading economies in the region are those of Brazil, Mexico, Venezuela and Argentina, which amount to 78 per cent of the region's total GNP. The same four countries are also the region's largest energy producers.

This region, in 1984, had a population of over 380 million, which is approximately 8 per cent of the total world population. These countries are well endowed with oil, natural gas, hydro, coal and bio-resources. Latin America as a whole is basically self-sufficient in commercial energy resources, with a surplus of oil of over 2 million barrels of oil per day. However, as is often the case, the balance of self-sufficiency is uneasily distributed, with Mexico, Venezuela, Ecuador, Peru, Trinidad and Tobago, and now Colombia, the net energy exporters, and the remainder of the Latin American countries the net importers, to differing extents.

At the end of 1986, of the total of 697 billion barrels of recoverable, proven crude oil reserves in the world, 89 billion barrels, or 12.7 per cent, were located in Latin America. The region thus has the second largest reserves in the world after the Middle East, which has a total of 57.6 per cent. The largest reserves in the region are to be found in Mexico and Venezuela.

Recently, significant new oil reserves have been proven in Brazil and Colombia, and development activities have led to a dramatic increase in production. By 1990 Latin America—in particular, Mexico and Venezuela—will have the potential and financial incentive to expand capacity quite rapidly, thus making the region an even more important oil supplier to world markets, and in saying this I pay particular attention to the U.S. market. The oil exports of this region will be in competition with Canadian crude entering the same market. Not surprisingly, the U.S. is the major market for Latin American crude oil. Of the total U.S. crude imports since 1983, 3.4 million barrels per day, Mexico, Venezuela, Trinidad and Tobago, Ecuador, Peru and Colombia have supplied about one-third.

At the end of 1985 the proven natural gas reserves of Latin America amounted to 5,538 billion cubic metres, or 5.7 per cent of total world reserves. The largest reserves are in Mexico and Venezuela, and an upward revision of reserves is likely to occur as exploration continues.

Coal has thus far played a minor role in the region's energy picture, supplying less than 7 per cent of the TPER in 1985, with production amounting to 25 million tonnes. The major producers, of course, are Brazil, Colombia and Mexico.

Electricity consumption in the region virtually doubled in the period between 1973 and 1984. In 1984 Latin American consumption was 12.8 per cent of total world electricity consumption.

Despite the fact that many countries in the region carry on activities in the nuclear power sector, only Argentina, Brazil, Cuba and Mexico have actually implemented or started to implement nuclear power generation plants. A second group of countries, comprised of Chile, Peru, Venezuela and Uruguay, is studying the possibility of introducing nuclear power into their systems, although at the moment they place priority on hydroelectricity, coal or geothermal energy sources.

In most countries of the region rigorous reviews and the resulting adjustments to plans to explore for and develop energy resources are under way. These aim to streamline investment priorities, modify contractual arrangements and revise regulatory and fiscal regimes. The Latin American region as a whole is well endowed with various energy resources, particularly hydrocarbons and hydro power. There are still large areas that have never been explored thoroughly and intensively. Prospects for an eventual upward revision of hydrocarbon resources are thus significant. A flexible and realistic attitude by the governments in the region with respect to foreign companies' participation will be needed in the future.

After the conference, the delegates were taken to visit two areas and view two important megaprojects in Colombia. One was the El Cerrejon-Zona Norte, which is the largest open pit mine in Latin America, and Port Boliva, located in the prov-

ince of La Guajara. In viewing this project, any Canadian would have been proud of Canada's contribution in terms of machinery and mining equipment used in the storage and shipment of coal in this $3 billion megaproject. It is operated by the State of Colombia and by Intercor on a 60/40 basis. Intercor is a wholly-owned subsidiary of Exxon. The project, which will certainly increase the capacity of Colombia with respect to coal exploration and exportation, is being operated by Intercor over a 23-year period. At the end of the 23-year period, all equipment and assets acquired in operation revert to the State of Colombia.

• (1500)

We then had an opportunity to visit the second-largest floating petroleum storage terminal in the world, located at Covenas on the Gulf of Morrosquille. The terminal is 17 kilometres seaward and has a capacity of three million barrels of oil. It is well equipped with state-of-the-art technology. It was constructed in Japan in 1976, converted to a storage terminal in France and Holland, and transported to Colombia in 1986. The terminal is supplied by a 500-mile pipeline from Cano Loman Field, which has proven reserves of two billion barrels.

This project is owned 60 per cent by Ecopetrol, which is the State oil company, 20 per cent by Occidental de Colombia and 20 per cent by Shell de Colombia. Occidental operates the production and transportation facilities and Ecopetrol operates the terminal facilities.

Bilateral relations between Colombia and Canada are excellent. They are based on common hemispheric interests, democratic values and the complementarity of resource base. Canadian bilateral development assistance to Colombia has averaged approximately $18 million Canadian per year for the period 1983 through 1988.

Major projects undertaken by the Canadian International Development Agency include the establishment of a national furniture manufacturing training centre and a Canadian $30 million line of credit for implementing public investment projects.

The Industrial Cooperation Program continues to be an active component of CIDA's activities in Colombia in a number of sectors.

The International Development Research Centre has its regional office for Latin America in Bogota.

Colombia has traditionally been one of Canada's more important trading partners in South America and currently ranks third as a market for Canadian exports to the region. In June 1986 Canada and Colombia signed a Memorandum of Understanding on Agricultural Cooperation.

There is also bilateral cooperation in the energy sector, with the Petro-Canada International Assistance Corporation providing technical assistance to the Colombian state petroleum corporation for exploration activities.

There have been discussions between Atomic Energy of Canada Ltd. and its Colombian counterpart concerning nuclear cooperation.

The development of Colombia's mining sector is of particular interest to Canada and there is an ongoing dialogue between Canadian and Colombian authorities on mining policies and legislation.

Among recent senior level visits between the countries, Dr. Fernanco Cepeda, then Minister of Government, visited Canada in December 1986. Mr. Masse, our Minister of Energy, Mines and Resources, visited Bogota in April 1987. In September 1987 Dr. Fernando Alarcon, Minister of Finance, made a brief trip to Canada, and in the same month Dr. Luis Parra, Minister of Agriculture, attended the Ninth Inter-American Conference of Ministers of Agriculture, which was held in Ottawa.

Official-level meetings of the Canada/Colombia Commercial Consultative Committee took place, for the first time, in February 1988.

In May 1988 Dr. Alvaro Tirado, the recently-appointed presidential adviser on human rights, made a week-long visit to Canada to study our organizational structures and approaches in this sector.

Canada will continue to search for opportunities to strengthen the ties between the two countries through various means, including exchanges of visits at both the political and official levels. I respectfully submit that the attendance of the Canadian delegation at the conference in Bogota was evidence of that continuing interest in establishing those relationships with the State of Colombia.

In conclusion, on behalf of the committee I should like to record our appreciation, through the Secretary of State for External Affairs, to officers at the Canadian Embassy in Bogota, including Mr. Percy Aboles, counsellor, Mr. Jim Graham, counsellor, and Mr. Grant Menuge, secretary. Of particular interest to honourable senators is the fact that the secretary, Mr. Grant Manuge, was a page in this chamber from 1982 to 1984.

We should also like to thank Mr. Roger Wilson, of the South American Division of External Affairs, and Mr. J. Reid Henry, of the Energy and Environment Division of External Affairs, for their services in briefing the committee prior to the visit.

On motion of Senator Petten, for Senator Ottenheimer, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, August 18, 1988

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

Prayers.

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

ORDER FOR DIVISION OF BILL RESCINDED

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I ask leave at this time to introduce a motion dealing with Bill C-103.

Honourable senators will recall that a motion had been made and approved by this house asking that the Standing Senate Committee on National Finance split this bill. In light of current events, it would be appropriate, I am told, that that order be rescinded.

The Hon. the Speaker *pro tempore:* Is leave granted honourable senators?

Hon. Senators: Agreed.

Senator Doody: Then, honourable senators, with leave of the Senate and notwithstanding rule 47(2), I move:

> That the Order adopted by the Senate on 7th June, 1988, with respect to the division of the Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, and the proceedings of 7th July, 1988, with respect to the Report of the Standing Senate Committee on National Finance and third reading of Part I of the said Bill, be rescinded.

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

Hon. Senators: Agreed.

Motion agreed to and order rescinded.

GOVERNMENT ORGANIZATION BILL, ATLANTIC CANADA, 1987

REPORT OF COMMITTEE

Hon. William M. Kelly, Deputy Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, August 18, 1988

The Standing Senate Committee on National Finance has the honour to present its

TWENTY-SEVENTH REPORT

Your Committee, to which was referred the Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, has, in obedience to the Order of Reference of Tuesday, May 31, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

WILLIAM M. KELLY
Deputy Chairman

Some Hon. Senators: Hear, hear!

THIRD READING

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

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), now.

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

Some Hon. Senators: Agreed.

Hon. John B. Stewart: Honourable senators, I wish to say a few words on the motion for third reading of Bill C-103. When it receives Royal Assent, this bill will produce two distinct acts of Parliament. Part I is to be called the Atlantic Canada Opportunities Agency Act. Part II is to be called the Enterprise Cape Breton Corporation Act. What we have here are two bills that have been cobbled together.

From the very beginning two facts have been evident. First, there was little objection in the Senate to Part I, which will produce the Atlantic Canada Opportunities Agency Act. That legislation could pass quickly. Secondly, in sharp contrast, there were senators who thought that Part II was seriously defective. It was thought that the Enterprise Cape Breton Corporation legislation required careful consideration, consideration that would probably result in amendments being proposed.

To permit the speedy enactment of the Atlantic Canada Opportunities Agency Act the Senate divided Bill C-103. On July 7 it gave third reading to the ACOA act. Then, on July 18, the Progressive Conservatives and the New Democratic

Party in the House of Commons voted that the clauses relating to the Enterprise Cape Breton Corporation be cobbled back together again with the clauses relating to the Atlantic Canada Opportunities Agency Act. All those who regard the Enterprise Cape Breton Corporation bill as defective, as bad, know how to interpret that vote by the Progressive Conservatives and the New Democratic Party. They see it as a vote against the interests of Cape Breton.

On what ground did the Progressive Conservatives and the New Democratic Party reject the division of the bill by the Senate? They rejected it on the ground that, by dividing Bill C-103, the Senate had:

> . . . altered the ends, purposes, considerations, conditions, limitations and qualifications of the grants of aid and supplies set out in the Bill . . .

They asked that the Senate return Bill C-103 to the House of Commons in an undivided form—whatever that means—after third reading.

Honourable senators, we know that a royal recommendation is required by section 54 of the Constitution Act of 1867 for any bill for the appropriation of any part of the public revenue or of any tax or impost. The argument was made that, since Bill C-103 had been introduced in Parliament with a royal recommendation, it must be a bill that appropriates a part of the public revenue or a part of a tax or impost. That explains the reference in the message that came to this house concerning grants of aid or supplies set out in the bill.

When we go through the bill clause by clause we find not a single clause that makes a grant of aid or supply. On July 27, 1988, the Comptroller General of Canada appeared as a witness before the Standing Senate Committee on National Finance. He did not point out a single clause in Bill C-103 that appropriates money. Not one dollar, not one cent, can be withdrawn from the Consolidated Revenue Fund on the authority of Bill C-103. Every dollar already expended for the purposes of ACOA was provided in a separate appropriation act. Every dollar to be expended will be provided in a separate act or in separate acts that appropriate money.

Despite that fact, undisputed in the committee, the government has made it clear that the ACOA legislation will not become law without the Enterprise Cape Breton Corporation legislation. That was, and remains, the government's position.

All the witnesses heard by the committee, apart from the minister and his assistants, told the committee that the Enterprise Cape Breton Corporation legislation should be amended. We were told that by Dr. Teresa MacNeil, appointed chairman of the board of the Cape Breton Development Corporation by the present government; by Mr. Charles Campbell, chairman of the Sydney Area Communities Futures Committee; and by Mr. Tom Kent, sometime Deputy Minister for Regional Economic Development and sometime president of Devco.

In the National Finance Committee I put forward proposals as to how the Enterprise Cape Breton Corporation legislation could be corrected. Honourable senators who have been following this bill know that the president of the corporation is to be part of the Ottawa bureaucracy. He is to be a deputy minister based not in Cape Breton but in Moncton, New Brunswick.

One of the amendments I had in mind would have given the corporation an independent president. I am sure that the present government could have found an acceptable person in Cape Breton to serve as the president of this new corporation.

Then, as if having his deputy minister as president is not enough, the minister is to be given special power to direct the corporation. Clause 34(3) reads:

> The Corporation shall comply with any directions from time to time given to it by the Minister respecting the exercise of its powers.

Another amendment would have struck out that clause.

Neither of those changes was acceptable to the government. Both, we were told, were contrary to settled government policy.

Honourable senators, I raised another point, one that cannot be dismissed as contrary to government policy. It relates to the definition of "Cape Breton Island".

Some honourable senators may know that about 200 years ago George III was delighted to learn that Cape Breton is an island.

An Hon. Senator: Hear, hear!

Senator Stewart: For days after receiving that information, that intelligence, he buttonholed acquaintances around the palace, saying to them, "Do you know that Cape Breton is an island?" When they confessed that they did not, he enlightened them by saying, "Cape Breton is actually an island!"

Under this legislation Cape Breton Island will include part of the mainland of Nova Scotia. It includes a large area on the western shore of the Strait of Canso. That area extends up through Sand Point, Melford, Pirate Harbour and Mulgrave to the Antigonish-Guysborough County line.

It happens that the Antigonish-Guysborough County line cuts through the last village on the mainland of Nova Scotia, a village through which there passes the TransCanada Highway and the Canadian National Railway leading to Cape Breton. That county line is an artificial line. There is no good reason why enterprises presently located in that village, Aulds Cove, or any prospective enterprise, should be deprived of the benefits of this act simply because they are located north of an artificial county line.

That proposal did not succeed in the committee. However, I did not detect the same stubborn resistence to the proposal as I found in the case of the other proposals.

Honourable senators, it now appears that Bill C-103 will be read the third time this afternoon, and I hope that it will receive Royal Assent immediately.

● (1410)

Back in 1865, when John A. Macdonald was explaining to his colleagues the agreed plan for the proposed Parliament of Canada, he stated something that I think we should remember.

Therefore, I would like to quote a few sentences from that distinguished authority:

> There would be no use of an Upper House, if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House. It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill considered legislation which may come from that body, but it will never set itself in opposition against the deliberate and understood wishes of the people.

In the case of Bill C-103, some senators have seriously questioned Part II, the legislation concerning the Cape Breton Corporation. A bad act, I suggest, relating to Nova Scotia has been tacked on to a good act relating to all four Atlantic provinces. Given the stubborn resistance of the government to all proposals to remedy Part II of the legislation, I can see no alternative but that we should agree this afternoon to the third reading of Bill C-103.

Senator Murray: Honourable senators, I wish to thank the members of the committee for the care, attention and study that they have given to this bill. In particular, I think the house will understand if I express a special appreciation to those supporters of the government from the Atlantic provinces who carried my brief and the brief of the government so ably into the committee during all of the committee hearings: my friend from Halifax, Senator Finlay MacDonald, Senator Robertson, Senator Ottenheimer, Senator Rossiter, Senator Macquarrie and others.

As minister responsible for ACOA, as well as the Leader of the Government in the Senate, I do want to express my satisfaction that the Liberal majority on the committee desisted in a course of action which had already caused an undue delay in passage of the bill and which, if persisted in, would have imperilled the bill by sending it to the House of Commons for the third time at this stage in the lifetime of this Parliament.

Senator Frith: Perhaps having it before them for the third time, but not sending it for the third time.

Senator Murray: It would have had the effect of placing the bill before the House of Commons for the third time. The decision of the Liberal majority on the committee is demonstrably in the interests of the Senate, of the legislative process and certainly of the Atlantic region. This was a very sensible decision, and I cannot help but observe that it gives rise to the hope that honourable senators might see the error of their ways on the free trade legislation, or—

Senator Haidasz: We haven't got it yet!

Senator Murray: —or, if they do not see the error of their ways, that they might at least realize that they are getting bad advice from Mr. Turner and will give some sober second thought to that.

[Senator Stewart.]

Senator McElman: You had better practise holding your breath!

Senator Murray: But I digress. One cannot blame Mr. Turner for giving bad advice. It is all he ever hears over there.

I take some satisfaction, and I think all honourable senators, especially those from the Atlantic provinces, can take considerable satisfaction, in the passage of this bill through third reading today. This is a good bill. It gives unprecedented authority, flexibility and resources to an agency dedicated to regional development. As I told the house when I opened debate on second reading, this is a nation-building measure. From this government's perspective, the reduction of regional disparities is as vital a part of our national agenda as free trade, constitutional reform, tax reform or deregulation.

In order to achieve our goal of reducing regional disparity, the government has undertaken an historic and evolutionary initiative. It has decided to replace a centralized decision-making structure and the national development policies by truly decentralizing authority to the regions in order to let the regions of Canada decide on their own economic development future. Bill C-103 relies on the self-confidence of Atlantic Canadians to solve the economic problems of their own region.

Honourable senators, a question relating to the constitutional validity of Part II of Bill C-103 was raised at the committee by Senator Frith. The record should show that the Department of Justice has advised that Part II of Bill C-103, creating the Enterprise Cape Breton Corporation, is a valid exercise of federal power under the Constitution. Last night this view was supported by the Senate parliamentary counsel at a meeting of the National Finance Committee.

There is certainly no doubt in my mind that the federal government has the jurisdiction, as well as the responsibility, to provide economic development programs to the regions of Canada through whatever instrumentality it thinks would serve best. It has done this in Cape Breton for 20 years through Devco and will continue to do so through the Enterprise Cape Breton Corporation.

Senator Frith: And it did so using the declaratory power!

Senator Murray: My honourable friend is wrong about that. It used declaratory power in 1968 to take on the management of the coal works in Cape Breton. The invocation of the declaratory power was not necessary in order to carry on the activities of the Industrial Development Division of Devco.

I do believe it was somewhat unfair of Senator Stewart and others to speak of the alleged stubborn resistance of the government to changes in this bill. I remind honourable senators that a legislative committee in the other place gave Bill C-103 a very lengthy and thorough review during hearings that were held not only in Ottawa but throughout the Atlantic region.

Amendments were proposed by the opposition and some were accepted by the government. For example, the government agreed with an amendment proposed by the NDP that the agency should produce, after each five years, a comprehensive report providing an evaluation of all its activities and the

impact those activites have had on regional disparity. I mention this simply to point out that the government has not adopted a rigid, "know it all" position with respect to this bill.

Another amendment accepted by the government is to include the Mulgrave area of the Strait of Canso in the definition of Cape Breton Island in Part II of the bill so that this extremely important growth area can benefit from the generous program authorities applicable to Cape Breton. I want to inform honourable senators that the area actually included in the amendment is co-extensive with the definition of Cape Breton in the Income Tax Act with respect to the investment tax credit, and that is why this amendment to this bill was accepted.

Senator Stewart has raised certain concerns that the area included in this amendment did not extend far enough to include all of Aulds Cove, which would not be co-extensive with the definition of Cape Breton in the Income Tax Act. I assure him that there is no intention of slighting the residents of Antigonish County, who will be able to have full access to ACOA programs that are generally available to Nova Scotia.

• (1420)

I do not think it is necessary to change the wording of clause 9, as suggested by Senator Stewart. The clause as worded adequately reflects the government's policy with respect to the power to co-finance, and the proposed amendment would not have constituted an improvement, at least not in my view.

The government did not agree with the amendments suggested by Senator Stewart with respect to Part II of the bill, which deals with the Enterprise Cape Breton Corporation Act. The amendments proposed are substantive. As I noted in my presentation to the Standing Committee on National Finance, the thrust of this government's strategy with respect to regional economic development is significantly different from that of our predecessors, as reflected in the DRIE organization and programs. It is clear that the Coal Division of Devco should report to the new Department of Industry, Science and Technology and that the Industrial Development Division should be closely associated with the federal department responsible for economic development in the Atlantic region—that is to say, ACOA.

The option chosen by this government to achieve this close association is to link statutorily the two economic development institutions by requiring the president of ACOA to be the president of Enterprise Cape Breton Corporation. This option ensures that the new ECBC will be connected to the mainstream of federal economic development initiatives while, at the same time, continuing the historic federal policy of providing a unique development institution for Cape Breton. There will be a board for the new crown corporation. That board will have decision-making powers. Indeed, the act provides that the Enterprise Cape Breton Corporation consists of the president, the vice-president and members of the board; so they will have all the autonomy that Devco now has.

The ministerial power of direction over the ECBC is, in my view, a necessary measure to ensure that the corporation remains accountable to the government with respect to the fulfilment of its legislative mandate. The proposed legislation and the Financial Administration Act provide very considerable safeguards against the unfettered exercise of this ministerial discretion.

Honourable senators, during the course of debate much was said about the contribution of the Industrial Development Division of Devco to the economic development of Cape Breton. I want to assure Cape Bretoners that the intention of the government is not to do away with the programs of the IDD but to continue these types of programs through the Enterprise Cape Breton Corporation, the ECBC. This corporation will have the same object and powers as the IDD. It will have its headquarters in Sydney. There will be a vice-president in Sydney who will be the chief operating officer. As I have said, there will be a board of directors in Cape Breton and they will have decision-making powers and a strong say in how the corporation is run.

Earlier today I spoke with Dr. Teresa MacNeil, the chairman and acting president of DEVCO; I asked her to convey the assurances that I have just given to the Senate to the people who are working in the Industrial Development Division of DEVCO, with whom she will be meeting later today. As I have told the Senate in the past and as I repeated to Dr. MacNeil this morning, there is no hidden agenda here. I assured her, as I assure the Senate, that I am not rushing, nor is the government, into any decisions concerning the ECBC. When this bill receives Royal Assent, there will be time for me and my colleagues to consider the composition of the board and the management, the mandate and the future activities of the Enterprise Cape Breton Corporation.

The people at the Industrial Development Division know that there has been a transition team working for some time. I have not yet received a report from them. I will receive one in due course, and when I have received it I will consider what the future course of action should be. I assured her, as I assure the Senate, that I will consult those who are responsible for the IDD, and others in Cape Breton, before making or recommending to my colleagues any final decisions about the future activities of this corporation.

In addition, the government intends to continue its not inconsiderable efforts to improve the economic climate of Cape Breton. I remind honourable senators that since Enterprise Cape Breton was created in May 1985 the ECB has made over 325 offers for projects, with a total value of $294 million, of which the federal contribution will be $157 million. This has helped to create 2,200 new jobs and maintain 1,200 existing jobs. All agree that the Cape Breton investment tax credit has been instrumental in improving the economic climate in Cape Breton. Unemployment on the Island has been reduced from 23 per cent in May of 1985 to 13.4 per cent in July of 1988—still too high, but a remarkable improvement and an encouraging trend. I say that this is a record of which the federal government and the private sector in Cape Breton can be proud. It should demonstrate the government's commitment to promoting the economy of Cape Breton.

The Atlantic region as a whole has experienced strong economic output and employment growth during the period from 1984 to 1988. Real gross domestic product has been very strong, averaging over 3 per cent in every province of Atlantic Canada. Employment increases in the Atlantic region have also been impressive, with an overall gain of 95,000 new jobs from July 1984 to July 1988. The number of unemployed has declined by 12,000 during that same period. I think these figures demonstrate that the economic policies of the government have been, and will continue to be, effective and that with ACOA in place the Atlantic region will continue to grow, particularly when the Free Trade Agreement takes effect.

Honourable senators, I take pride, as I know the staff of the Atlantic Canada Opportunities Agency does, in our record of achievements in the first 15 months of our existence. The greatest achievements of ACOA lie ahead and will consist not only in the incentives and assistance that we can provide to private enterprise but in the success that we achieve in changing the whole economic landscape of the Atlantic provinces. Our success will be measured in terms of the impact we have on the policies of the federal and provincial governments and on the decisions of the private sector, which will make ACOA a key agency of economic change in the region.

If this legislation needs to be amended in the future, if our policy needs to be improved upon to achieve those goals, we will do it and we will be attentive to the views of parliamentarians from the Atlantic region. I am confident that all Atlantic Canadians will recognize that honourable senators, particularly those from Atlantic Canada, have joined with us in this act of nation building. This is an accomplishment that I am sure all honourable senators can be proud of.

• (1430)

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

Senator Frith: It is not really our pleasure, but, yes.

Motion agreed to and bill read third time and passed.

CANADIAN WHEAT BOARD ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Efstathios William Barootes, Deputy Chairman of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, August 18, 1988

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred the Bill C-92, An Act to amend the Canadian Wheat Board Act, has, in obedience to the Order of Reference of Wednesday, 27th July, 1988, examined the said Bill and now reports the same without amendment, but with the following comments:—

[Senator Murray.]

An Hon. Senator: Dispense!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I understand that Senator Barootes is going to ask for third reading of this bill now, whereas, under the rules, he should move third reading at a later date. We are inclined to allow third reading today because Royal Assent is scheduled. That was the reason we did not insist on one day's notice for the bill dealing with ACOA. Since the Standing Senate Committee on Agriculture and Forestry has reported the bill with some comments, I think the complete report should be read.

[*Translation*]

A Clerk at the Table:

Clause 8 of the Bill allows the Canadian Wheat Board, with the approval of the Governor in Council and subject to such terms and conditions as the Governor in Council may prescribe, to fix and pay a sum per tonne to each producer who has sold and delivered grain to the Board. These payments, which could be all or a portion of the storage and interest carrying charges deducted from pool accounts, would be in addition to any payment authorized by section 25 of the Act and would be made in respect of any pool period. Carrying costs depend in part on the volume of grain shipped. Given that these volumes are not known with certainty until the end of the year, the payment would not be remitted until that time. We understand that the Canadian Wheat Board would make recommendations to the Governor in Council, who would then consider the recommendation and set the percentage of the carrying costs to be rebated. The Minister, in testimony before the Committee, estimated that the amount of the additional rebate would be less than half of the total value of the carrying charges, which would amount to between $50 and $75 per car of wheat.

[*English*]

The Committee, in its examination of this Bill, heard from witnesses, both for and against Clause 8. Those opposed suggested that the added incentive this clause would give to the use of producer cars would result in an increase in their use such that the orderly marketing system for grain would be jeopardized. They emphasized that increased producer car use could lead to a more rapid rate of elevator closure and increased average charges as fewer producers would share the costs of maintaining the country elevator system.

[*Translation*]

The supporters of Clause 8 were concerned about the inequity associated with producer car users paying for services they are not using. They emphasized that the existence of the producer car option provides producers with some choice as to how their wheat is to be delivered to the Canadian Wheat Board.

• (1440)

[*English*]

The Minister of Grains and Oilseeds, Mr. Charles Mayer, told the Committee that he supports the Canadian orderly marketing system for grain and feels that it is in no one's interest to have that system threatened or destroyed.

[*Translation*]

"I happen to think that the wheat board system for a country the size of Canada is the best system we can have, and I think it has worked well. I do not believe that this kind of amendment is any kind of a threat." (*The Honourable Charles Mayer, appearing before the Committee, 17 August 1988*)

[*English*]

The Minister is prepared to fix the percentage for the rebate in such a way that the system would not be undermined by a dramatic increase in the use of producer cars.

[*Translation*]

"In conversation with the wheat pool, we have said, 'Look, we are all adults. This is a serious business, and we are talking about a major industry in an important part of the country. We are not going to stand by if in one year the use of producer cars jumps dramatically and causes all kinds of problems. We will sit down around a table and approach the matter as people with common sense. We are not interested in doing anything that will damage the overall system.' " (*The Honourable Charles Mayer, appearing before the Committee, 17 August 1988*).

[*English*]

Some Committee members feel that the Canadian Wheat Board should have the benefit of adequate inputs from interested parties prior to making recommendations to the Govenor in Council, and they are concerned about the lack of a clearly-defined, statutory methodology to be used by the Canadian Wheat Board in arriving at its determination of the percentage to be rebated.

Respectfully submitted,

E.W. BAROOTES
Deputy Chairman

THIRD READING

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

Hon. Martha P. Bielish: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[*Translation*]

QUEBEC COURTS AMENDMENT BILL

REPORT OF COMMITTEE

Hon. Joan B. Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, August, 18 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-EIGHTH REPORT

Your Committee, to which was referred the Bill C-145, An Act to amend various Acts to give effect to the reconstitution of the Quebec Provincial Court, Court of the Sessions of the Peace and Youth Court as the Court of Quebec, has, in obedience to the Order of Reference of Wednesday, August 17, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN B. NEIMAN
Chairman

THIRD READING

The Hon. the Speaker *pro tempore:* When shall this bill be read the third time, honourable senators?

• (1450)

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on behalf of Senator Flynn, with leave of the Senate and notwithstanding rule 45(1)(*b*), I ask that this bill be read the third time now—once again because Royal Assent is scheduled for later this afternoon.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

FISHERIES

SEVENTH REPORT OF COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Hon. Jack Marshall: Honourable senators, I have the honour to present the seventh report of the Standing Senate Committee on Fisheries, respecting requests that the supplementary funds to travel to the Eastern Arctic and to Greenland be approved. I 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 that it form part of the permanent records of this house.

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

Hon. Senators: Agreed.

(*For text of report see Appendix "A", p. 4205.*)

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

Senator Marshall: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, to adopt the report?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): 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, 30th August, 1988, at two o'clock in the afternoon.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Explain!

Senator Doody: Honourable senators, I simply want to say that, since we have fairly well cleared the order paper of government business at this point and are now awaiting more legislation from the other place, I thought it appropriate that the Senate not sit next week. However, I should point out to honourable senators that various committees will be meeting next week.

The Standing Senate Committee on Banking, Trade and Commerce, I understand, has meetings scheduled for at least Tuesday and Wednesday, and perhaps other days as well, to deal with Bill C-110, the Canadian International Trade Tribunal Bill.

I understand that the Standing Senate Committee on Legal and Constitutional Affairs will be meeting to further its study of Bill C-61. As well, that committee has work to do on Bill C-82, respecting lobbyists.

I should also remind honourable senators that the Standing Senate Committee on Internal Economy, Budgets and Administration will meet on Thursday morning at nine o'clock.

I should not have to say this, but I will: I feel that our duty to attend committee meetings is every bit as important and as much our responsibility as our duty to attend sittings of the Senate. I urge all honourable senators to make every effort to attend these committee meetings, particularly the one on Thursday morning. This is a matter of grave importance and I urge full attendance by my colleagues.

[Senator Marshall.]

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

Hon. Senators: Agreed.

Motion agreed to.

HUMAN RIGHTS

SECRET PROTOCOL OF RIBBENTROP-MOLOTOV TREATY OF AUGUST 23, 1939

Hon. Stanley Haidasz: Honourable senators, may I just have a few moments to make a short announcement, because we will not be sitting on Tuesday next?

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

Hon. Senators: Agreed.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have no problem so long as it is not a lengthy announcement. We have one more third reading, Question Period and Royal Assent scheduled for 3.30.

Senator Haidasz: Thank you, honourable senators.

Honourable senators, a black event in history, the infamous "secret protocol" of the Ribbentrop-Molotov Treaty of August 23, 1939, is being marked in 34 cities throughout the world and on Parliament Hill on Tuesday next. That protocol was the one that partitioned Europe just before the end of September 1939, when World War II was unleashed.

As co-chairman of the sponsoring committee, along with the honourable member for Parkdale-High Park in the other place, I call upon all honourable senators to attend, either in their home cities or on Parliament Hill, this event sponsored by the Black Ribbon Day Committee.

NATIONAL PARKS ACT

BILL TO AMEND—THIRD READING

Hon. Eileen Rossiter moved the third reading of Bill C-30, to amend the National Parks Act and to amend an act to amend the National Parks Act.

Motion agreed to and bill read third time and passed.

ROYAL ASSENT

NOTICE

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

18 August 1988

Sir,

I have the honour to inform you that The Honourable Gérard V. J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 18th day of August, 1988, at 3:30 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

● (1500)

BLUE WATER BRIDGE AUTHORITY ACT

BILL TO AMEND—SECOND READING DEBATE—SUBJECT MATTER OF BILL REFERRED TO COMMITTEE

Hon. William M. Kelly moved the second reading of Bill C-210, to amend the Blue Water Bridge Authority Act.

He said: Honourable senators, I rise today to speak to Bill C-210, to amend the Blue Water Bridge Authority Act. This is a very short bill, the central purpose of which is to indemnify the Canadian members of the bridge authority against personal liability for:

> . . . any injury or loss . . . as a result of an act of terrorism or the fault, neglect, want of skill or wilful and wrongful act of any other person.

I should now like to give you some brief background on this whole matter. The Blue Water Bridge was constructed in October 1938 and links Point Edward, Ontario, and Port Huron, Michigan. In 1964 the Government of Canada passed the Blue Water Bridge Act. The mandate of the Blue Water Bridge Authority was, and is, to operate and maintain the Canadian half of the bridge. The act established eight members, or commissioners, four of whom must be Canadian citizens. They are appointed by the federal government by order in council. The commissioners serve at pleasure and without remuneration.

During the past several years traffic on the Blue Water Bridge has increased significantly year by year. In 1987 nearly four million vehicles crossed the bridge, with the heaviest traffic occurring during the summer months. July and August last year saw nearly one million vehicles crossing the bridge. As we all know, Sarnia-Lambton is the petrochemical centre of eastern Canada, as a result of which truck traffic and trucks carrying hazardous goods form a significant portion of the traffic using the bridge. A short time ago the Windsor Tunnel and the Ambassador Bridge, linking Windsor and Detroit, banned trucks carrying hazardous or toxic goods. This traffic is now filtered through the Blue Water Bridge link. The completion of I-94, the Michigan state highway, contributes very substantially to the increase in the volume of traffic through that same link.

Commissioners of the bridge authority have a very real concern that, in the event of a major disaster on the bridge, the current liability insurance arrangements may not be sufficient to cover all claims and that they could become personally liable. Counsel for the Blue Water Bridge Authority has acknowledged before a committee in the other place that the commissioners are aware of section 7(3) of the Blue Water Bridge Authority Act, which states:

> For greater certainty, it is hereby declared that section 30 of the Interpretation Act applies to the Bridge Authority.

At the time the Blue Water Bridge Authority Act was passed in 1964, the Interpretation Act provided, by its section 30(1)(*c*):

> In every Act, unless the contrary intention appears, words making any association or number of persons a corporation or body politic and corporate shall
>
> (*c*) . . . exempt individual members of the corporation from personal liability for its debts or obligations or acts, if they do not violate the provisions of the Act incorporating them.

Under the current Interpretation Act, section 20 provides what amounts to basically the same thing. Section 20(1)(*d*) reads:

> Words establishing a corporation shall be construed
>
> (*d*) . . . to exempt from personal liability for its debts, obligations or acts such individual members of the corporation as do not contravene the provisions of the enactment establishing the corporation.

It would seem to me, honourable senators, that the members of the authority already have the protection they seek. Nonetheless, they are still left with a sense of uncertainty. If you like, this bill could be regarded as being for greater certainty. Passage of this bill will provide peace of mind for the bridge authority commissioners. The bill before you will provide, with greater certainty and clarity, protection to the members of the authority. The work these men do in managing this installation is important and they serve without remuneration. Insurance will continue to be purchased to the highest amount possible and the bridge authority will continue to enhance and improve safety measures. Passage of this bill will provide an explicit and direct release of personal liability for the Canadian members of the Blue Water Bridge Authority in the event of an act of terrorism or of a major disaster beyond their control.

Honourable senators, I urge speedy passage of this bill.

Some Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have read this bill and the debates in the other place and I have listened to Senator Kelly, hoping to be able to find a reason to support this bill at second reading. My problem is that I cannot figure out what the principle of the bill is. I know it is for greater certainty. When I first glanced

at it, I thought the intention was probably to update the Interpretation Act and to clarify the provisions of the Blue Water Bridge Authority Act and the Interpretation Act, and, if I am not mistaken, perhaps even another act that would apply, the act protecting public authorities, by making it clear that acts of terrorism should be included. When I saw that Senator Kelly, our resident expert on the subject of terrorism, was sponsoring the bill, I thought perhaps I had found what the bill's principle was. However, as he has pointed out, the bill provides that the members of the bridge authority will not be personally liable for any injury or loss suffered by any user of the Blue Water Bridge resulting from an act of terrorism. But it then goes on to say:

> ... or the fault, neglect, want of skill or wilful and wrongful act of any other person.

That goes quite a bit beyond the idea of terrorism. So I am still left with the question of what the principle of the bill is.

When I consulted the *House of Commons Debates* on the matter, I was not helped very much. As a matter of fact, most of the debate in the other place dealt with the satisfaction felt by the representatives of the various parties over there that such progress had been made in the advancement of private bills.

We must remember that this is a private bill; so any criticism I have of it is not criticism of the government. It is not a government bill. However, in looking at the interventions made in the Commons, I found, as Senator Kelly has said, that insurance is purchased to cover responsibility under the act, and, as he says, will continue to be purchased. I am a bit sorry to hear that, because, when I read the provisions of the bill, I was hoping to be able perhaps to bid on that coverage myself. Personally, I would be prepared to accept quite a reasonable premium to protect someone against liability, knowing that the laws of the land provide that they will not be responsible for an act of terrorism or for the fault, neglect, want of skill or wilful and wrongful act of any person. So, if this is ever passed, I hope that the insurance company's premiums will be reasonable. If not, I may be able to put together a group that would be prepared to go on that risk.

The other point I want to make, honourable senators, is that I think the Senate has a duty to keep an eye out for what we might call a pernicious piggybacking—even though piggybacked in a worthy cause—of changes in the general law of the land. It may be that the fact that the directors of this corporation serve without remuneration is a reason to protect them against damages as a result of an act of terrorism. But to piggyback this additional and unnecessarily wide protection raises the question as to whether this bill should receive our approval or whether even its principle should.

● (1510)

We have seen this pernicious piggybacking in various recent bills. I cannot say that this government is the only government that has done that—it has been happening for some time—but I give as an example, first, Bill C-61, which was billed as the means of seizing drug moneys and enterprise crime proceeds,

[Senator Frith.]

but was drafted in such a way that it is broad enough to cover shoplifters. The powers of seizure and presumption of guilt in it deal with quite a subversion of public liability for police mistakes—far beyond other powers in the Criminal Code—and affect general rights. However, it is hard to vote against a bill that provides for the seizing of moneys and proceeds of crime, particularly that of drug pushers.

Then, take Bill C-82, dealing with lobbyists. It has a worthy objective, to regulate lobbyists. The impression is that it is there to control the big lobbyists, but if it comes into effect any individual who might be compensated for writing a letter, or having a phone call with anyone in public office, would be covered by the terms of the bill and would, for each occasion, have to file a form with the name and address of the lobbyist, the client, the matter or person lobbied, and so on. Again, it is hard to vote against the concept of registering lobbyists—that is, the so-called big boys. On the other hand, to change my metaphor, why is it necessary to "Trojan horse" these other provisions in under that banner?

That is now also a mixed metaphor, Senator Doyle.

Senator Roblin: We are with you; we follow you.

Senator Frith: We did the same thing on Bill C-84, the Immigration Bill. I know that there was not full agreement on that, but it was alleged that that bill, which was meant to address a serious immigration problem, a problem that we all agree was a serious immigration problem, went so far as to catch in its net certain church groups, whose activities and objects probably many of us, if not all of us, would not categorize as helping in illegal or undesirable immigration.

Honourable senators, I suggest, because I find it difficult to be sure of what principle I am supporting in this bill, that we not read it a second time but send the subject matter of the bill to the Standing Senate Committee on Legal and Constitutional Affairs so that they can hear some evidence on it and report back to us to ensure that we understand exactly what we are doing with the principle of this bill.

If we get the reassurances I hope we will get, there is no reason not to give it passage. But I hope that that committee will be able to help us even at second reading debate.

I want to make it clear that there is no intention to delay this bill unduly, but Senator Kelly himself admits that it is cast in very broad terms. I think it will help us considerably at second reading, and eventually at third reading of the bill, if we receive a report from that committee before we give it second reading.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I understand that Senator Kelly would like to make a comment or answer a question. However, he does not, obviously, want to close second reading for the reasons that Senator Frith has just said.

Senator Frith: Yes, that is agreed. He would not be closing the debate on second reading.

Senator Doody: Thank you.

Senator Kelly: Honourable senators, I wish to address two points that were raised by Senator Frith. Most of the comments I made outlined the view I have, but I would like to draw Senator Frith's attention to clause 21.1(1) and the underlined word "other".

Senator Frith mentioned that this would seem to clear the commissioners themselves of any wrongful act committed by them. The insertion of the word "other" took place at the committee stage in the other place for the very reason outlined by Senator Frith. Originally, it did do just as Senator Frith suggested. It looked as though they had carte blanche. The word "other" was an attempt to isolate them. They remain liable for any wrongdoing on their part, but are free from liability as a result of acts of others.

Secondly, concerning the question of insurance, I want to remind Senator Frith that the insurance premiums will not go down, in that the authority is the insured party. The authority will still have to be insured and would face considerable liability in the event of a disaster of some sort; but this frees the commissioners from personal liability. However, the overall insurance policy will still cost quite a bit.

Senator Frith: And they will not be included in any such coverage, then?

Senator Kelly: No.

Senator Frith: Honourable senators, I understand the point made. My original reading of the bill had been before the committee change. In other words, I was reading the first reading copy.

But that does not change the problem of the principle of the bill. I hope that we will get a good explanation, but I do not think that we have enough evidence before us to give this bill second reading. Even on the question of adding the word "other", the responsibility of the directors would normally be a vicarious responsibility for the acts of others anyway. I had rather assumed, in fact, that they were not asking for protection against fault, neglect, want of skill or wilful and wrongful acts of themselves in any event.

I believe that this is one of those rare cases when we should ask a committee for a report before we give it second reading.

The Hon. the Speaker *pro tempore:* Honourable senators, it is moved by the Honourable Senator Frith, seconded by the Honourable Senator Petten, that this bill be not now read the second time but that the subject matter of the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Senator Frith: Honourable senators, I should probably put on record—and I think there are precedents to support this—that this motion in the Senate does not kill the bill, as some in the other place argue it does. We did this with Bill C-83 and the Caisse de Dépot Bill. It is clear that this does not kill the bill, according to Senate procedures.

On motion of Senator Frith, subject matter of bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I ask that all remaining orders, inquiries and motions stand.

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

Hon. Senators: Agreed.

The Senate adjourned during pleasure.

At 3.30 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy 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 Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public (*Bill C-129, Chapter 44, 1988*)

An Act to amend the Western Grain Stabilization Act (*Bill C-132, Chapter 45, 1988*)

An Act to amend the Canada Grain Act and other Acts in consequence thereof (*Bill C-112, Chapter 46, 1988*)

An Act to amend the Canadian Wheat Board Act (*Bill C-92, Chapter 47, 1988*)

An Act to amend the National Parks Act and to amend An Act to amend the National Parks Act (*Bill C-30, Chapter 48, 1988*)

An Act to amend various Acts to give effect to the reconstitution of the Quebec Provincial Court, Court of the Sessions of the Peace and Youth Court as the Court of Quebec (*Bill C-145, Chapter 49, 1988*)

An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts (*Bill C-103, Chapter 50, 1988*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, August 30, 1988, at 2 p.m.

APPENDIX "A"

(*See p. 4200*)

STANDING SENATE COMMITTEE ON FISHERIES

SEVENTH REPORT (SUPPLEMENTARY BUDGET)

THURSDAY, August 18, 1988

The Standing Senate Committee on Fisheries has the honour to present its

SEVENTH REPORT

Your Committee, which was authorized by the Senate on Tuesday, October 28, 1986, to study and report upon all aspects of the marketing of fish in Canada, and all implications thereof and on Thursday, October 30th to adjourn from place to place within and outside Canada, respectfully requests that the supplementary funds to travel to the Eastern Arctic and to Greenland be approved.

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

Respectfully submitted,

JACK MARSHALL
Chairman

APPENDIX (A)

THE STANDING SENATE COMMITTEE ON FISHERIES

EXAMINATION OF ALL ASPECTS OF THE MARKETING OF FISH IN CANADA, AND ALL IMPLICATIONS THEREOF

APPLICATION FOR A SUPPLEMENTARY BUDGET FOR THE PERIOD 1st APRIL 1988 TO 31st MARCH 1989

TRIP TO EASTERN ARCTIC AND GREENLAND

ORDER OF REFERENCE

Extract from the *Minutes of the Proceedings of the Senate*, on Tuesday, October 28, 1986:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Marshall, seconded by the Honourable Senator Murray, P.C.:

That the Standing Senate Committee on Fisheries be authorized to examine all aspects of the marketing of fish in Canada, and all implications thereof:

That the papers and evidence received and taken on the subject before the Committee during the 1st Session of the 33rd Parliament be referred to the Committee; and

That the Committee report no later than September 15, 1988. *

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

* By order of the Senate, this date was extended to 31 March, 1989

Charles A. Lussier
Clerk of the Senate

Professional and Other Services (including salaries)	$ 9,765
Transportation and Communications	11,926
All Other Expenditures	3,480
	$ 25,171

The foregoing budget was approved by the Committee on the 16th day of August, 1988.

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

18 August 1988

Jack Marshall
Chairman, Standing Committee on Fisheries

18 August 1988

Roméo LeBlanc *(Beauséjour)*
Deputy Chairman, Standing Committee on Internal Economy, Budget and Administration

PROFESSIONAL AND OTHER SERVICES

I.S.T.S.		
a) Iqaluit	$5,032.50	
b) Kuujjuak	4,732.50	
TOTAL		$9,765.00

TRANSPORTATION AND COMMUNICATIONS

Travel expenses		
Air Transportation		
a) D.N.D.	$4,000.00	
b) Greenland Air (Sondre Stromfjord to Nuuk, return @ $480. x 11)	5,200.00	
c) First Air		
(Ottawa to Iqaluit, one way, for necessary staff, @ $441. x 6)	2,646.00	
TOTAL		11,926.00

OTHER EXPENDITURES

Gifts		
$50. x 3 (Minister of Fisheries/ High Commissioner/ Honorary Consul)	$150.00	
$40. x 7 (middle level officials)	280.00	
$50. - tokens	50.00	
Dinner (Greenland Reception)		
$100. x 30 people	3,000.00	
TOTAL		3,480.00
GRAND TOTAL		**$25,171.00**

APPENDIX (B)

THURSDAY, August 18, 1988

The Standing Committee on Internal Economy, Budgets and Administration has examined and approved the supplementary budget presented to it by the Chairman of the Standing Senate Committee on Fisheries for the proposed expenditures of the said Committee with respect to its study of the marketing of fish in Canada, and all implications thereof, as authorized by the Senate on October 28, 1986. The said supplementary budget is as follows:

Professional and Other Services (including salaries)	$ 9,765
Transportation and Communications	11,926
All Other Expenditures	3,480
	$ 25,171

Respectfully submitted,

ROMÉO LEBLANC
Deputy Chairman

THE SENATE

Tuesday, August 30, 1988

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

Prayers.

[*Translation*]

THE LATE HONOURABLE JEAN MARCHAND, P.C.

TRIBUTES

Hon. Arthur Tremblay: Honourable senators, at the request of Senator Lowell Murray, on his behalf and on behalf of the government, I pay tribute to the memory of the Honourable Jean Marchand, who was a member of this house for seven years and its Speaker for four years.

Personally, I pay tribute to him first and foremost as a friend. We quickly became friends when we went to Father Lévesque's *École des sciences sociales* in 1939 and this friendship lasted through the years.

As the years pass, one fully realizes that few friendships—two, three, maybe four—survive the different career paths one takes. I had the inestimable good fortune that our friendship, Jean's and mine, was one of those. I am fortunate that it remained intact after almost 50 years. I thank Providence for such a gift, such a grace.

Obviously, it is impossible in a few minutes to do any justice at all to a career like Jean Marchand's. So I will mention only a few of the many memories that have come to mind in the last two days.

The first goes back to the late '50s, to a conference on education held in February 1958 at the University of Montreal. This was a major gathering of all those interested in education. Attending this conference were over 1,000 people representing not only the schools but other groups as well. The Saint-Jean-Baptiste Society had initiated this conference. We were at the closing session, where resolutions were to be passed. The situation was a follows: a dais had been set up in the great amphitheatre of the University of Montreal, a real panel of "establishment" figures from the world of education as it then was, before reform had really begun.

We entered the hall, Jean and I, and he said to me, "Come sit next to me. I'll tell you what to do." There was a resolution divided into two parts, a very general resolution for immediate action and all the rest, the important questions for later consideration. Thus, discussion of free tuition, compulsory school attendance and a whole series of measures affecting many aspects of education was postponed.

Jean Marchand's strategy, gained from his long union experience, was to have someone from the floor, facing this august panel, propose that everything for future consideration be brought into the resolution for immediate action. He was in charge of strategy. When he wanted technical explanations, he said: It's your turn. But when it was a matter of strategy, of manoeuvring the crowd and getting a consensus on a subject that had not been put forward by the panel, it was Jean who intervened.

Why do I mention this? First of all, to show what I would call the union leader at work, and also to illustrate the kind of unionism practised by Jean Marchand. His unionism did not focus exclusively on collective bargaining but was sensitive to the broader issues of society. At the time, education was one of those issues, and could not be ignored by Jean Marchand. So he registered, and he saw his demands materialize when the Department of Education was established several years later. We were talking about the conference of 1958 just a few weeks ago.

Another memory goes back to the time when the Commission on Bilingualism and Biculturalism, the Laurendeau-Dunton Commission—a name familiar to our colleague Senator Frith—was being established. Prime Minister Pearson had asked Jean Marchand to sit on the commission. I think Jean was willing to accept but did not want to go alone. He insisted that André Laurendeau be joint chairman as well as a member of the commission. Laurendeau had some reservations. He was very reluctant to leave journalism and get involved in the federal scene, which was understandable considering his past history and his philosophy.

● (1410)

I remember one evening in Cap Rouge when Laurendeau came to meet Marchand. I think that was when Marchand managed to convince Laurendeau to become a .member and joint chairman of the Laurendeau-Dunton Commission. This was another instance of Jean's intervening at a crucial moment and doing so decisively, without necessarily playing a leading role himself.

I think I can say, at least that is my interpretation, that on that occasion, following the inquiry conducted across this country, he suddenly became aware of the problems that existed with respect to relations between French and English in this country. I think that was when Marchand realized something had to be done.

He found a mission in life, as it were, and when Mr. Pearson asked him to come to Ottawa, I think he had already given the idea a great deal of thought and was ready to get involved in a struggle where the future and unity of Canada were at stake. Again, he was prepared to accept, provided he did not go alone, and so he more or less negotiated Mr. Pearson's approval of two more candidates, Gérard Pelletier and Pierre Elliott Trudeau.

I think we can say the negotiations with Mr. Pearson went smoothly in the case of Gérard Pelletier and not so smoothly in the case of Pierre Elliott Trudeau. In any event, they went to Ottawa, and you know the rest of the story.

I mention this to show once again how Jean Marchand was present at certain strategic moments in this country's history.

A third story, similar in a way but not as important, and that will be the last example I shall give today, was the role he played in getting the enabling legislation for the Department of Regional Economic Expansion through Parliament.

Jean was well aware that if development programs were to have any hope of succeeding, there would have to be consultation between both levels of government, at least at the planning stage. There was no such provision in the first version of the bill. It was Jean who, after talking it over—I was there—with Marcel Masse, minister of state responsible for the planning board in the Quebec government at the time, ordered the inclusion of a provision that provided for harmonization of regional development plans and for the implementation of programs within the framework of a joint planning process. Development activities that took place over the years may not have produced the expected results in every case, but at least the concept has survived, the concept of harmonizing the activities of both levels of government, at least at the planning stage.

There are so many more instances I would have to recall to reflect accurately the dimension and importance of the role played by Jean Marchand in building the Quebec and Canada of today.

There was also the style and the depth of his commitment. I would like to put it this way: Jean Marchand was always a Quebecer through and through, a Quebecer down to his roots, but at the same time he was a Canadian who owed his allegiance to Canada. In him, the two were not contradictory but strove to harmonize.

We talked about this quite often, but as far as I know, he never could decide to write down his own story, so we would at least have his perception of the significance of what he did. He was not a writer, but it was not that he lacked the skills. From time to time, he would produce a text that was a model of composition. However, it would have taken time and especially a great deal of patience, and the latter was not his strong suit.

We can only hope that others will do it for him, using the quite considerable number of papers he kept at Cap Rouge where he had started to put them in some semblance of order, with difficulty and not very regularly.

What we have heard on radio and television and what we have read in the media in the past two days demonstrates that Jean Marchand put his stamp on our time as very few Quebecers and Canadians have done. The tribute we pay to his memory, which is echoed across the country, is the tribute we pay to great men. He was a great man.

May his soul rest in peace, awaiting the Resurrection. On behalf of my colleagues and on my own behalf, I wish to extend my heartfelt condolences to his only daughter, Marie-Ève, to his grandchildren, Emmanuel and Melissa, and to the other members of his family.

[Senator Tremblay.]

[*English*]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, these occasions are difficult when we want to take the opportunity to remember both the public and the private lives of former colleagues. The temptation to do a mini-biography is always present, because we have so many rich memories and so many admiring recollections and we do not want to leave any out. However, of course, consistent with the nature of the occasion, we do.

The public Jean Marchand is well known. He went straight from high school to the Catholic Workers of Canada as an organizer. He then became the first elected President of the CNTU. He figured in the asbestos strike, and I believe that is when he first met Mr. Trudeau. He was involved in the Radio-Canada producers strike and worked there with René Lévesque.

I met him first in 1963, when he and I sat at the first meeting of the B & B Commission under the chairmanship of Mr. Laurendeau and Mr. Dunton. It was not long before I realized that I was sharing that commission's activities with a real patriot and a very unusual man. He soon established the reputation that lived with him all his life. He was very direct, very intelligent, very experienced, very hard-nosed, courageous and candid. He had a great sense of humour, loved a joke, and, as many of you may remember, also loved to sing and had a more than acceptable voice.

Senator Tremblay has told us about his recruitment to the federal political scene. I understand it was René Lévesque who told him not to take the step to the federal scene by himself, saying that, if Trudeau and Pelletier had said they were going to go, then he should insist that all three of them go, citing some problems that Lévesque himself had had in another context.

Moving on to our private memories of him, he was a remarkably effective person and, although determined and realistic, very warmhearted. He was perhaps occasionally wrong, although I do not remember him ever being in doubt.

In his maiden speech in 1977 he made it clear that, although he had played a major role in federal politics, his roots were still firmly entrenched in the labour movement. He was speaking on an inquiry into the problems of labour relations in the country and certain related problems of economic order. He dealt at length with the union movement in Canada and the relationship between organized labour and government. He said:

> I have been in public or semi-public life for 35 years, and what has struck me most is that Canadians do not know Canada; we do not know each other. We know our region; we know our community; sometimes we know a little about our province, but we do not know each other. We cannot have a united country if we do not understand the problems of others.

Senator Marchand not only recognized the problem but worked diligently for a united country by promoting the understanding that he felt was so essential. He did it in the union movement, he did it with the Royal Commission on Bilingualism and Biculturalism, and he did it in provincial and national politics. In particular, he certainly did his part by raising the consciousness of English Canada when it came to the new dynamics of Quebec society.

● (1420)

There was one line in Senator Marchand's maiden speech that particularly struck home. After he described the relationship between the various regions of the country, he said, "In this country we all need each other."

Well, when Canada needed Jean Marchand, he was there.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, Jean Marchand had a lot of panache, both morally and physically. His mop of unruly red hair perfectly reflected his personality which was both fiery and resolute, with at times a touch of extreme sensitivity and melancholy.

Both his careers, of almost equal duration—as a union leader from 1942 to 1965, and as a politician from 1965 to 1984—are evidence of his determination to achieve objectives which are both idealistic and realistic.

The union leader, who had received his training at the *École des sciences sociales* under Right Reverend Father Georges Henri Lévesque, had greatly contributed to a necessary reform of employer-employee relations in the province of Quebec. From an aggressive fighter at an early stage, he had become less dogmatic and more flexible, as progress was being made. A parallel development could be found in the management's outlook.

The great battles of the union movement having become less attractive to him, he had turned to federal politics where for some years the recognition of the French fact had been the main issue. We know the rest: As leader of the Quebec wing under Prime Minister Pearson, he decided not to succeed him as leader of the Liberal Party (just a nod would have been enough) and instead threw his weight behind Pierre Trudeau. Thus was born the French Power which was going to express itself in various ways, but especially through the Official Languages Act. Alas! Dark clouds were going to darken the skies in 1976 with the air traffic controllers' crisis. Unable to accept the government's surrender, Marchand resigned first from Cabinet, and then from the House of Commons, only to charge head on against separatism during the provincial election which resulted in René Lévesque being elected Prime Minister of Quebec and Marchand himself facing personal defeat.

Back in Ottawa, he was appointed to the Senate, but he was no longer the same. On a few occasions, he had given signs of his former fiery spirit. Appointed Speaker of the Senate in 1980, he took part in the referendum campaign the same year and demonstrated his power as a powerful orator. Because of his position as Speaker of the Senate he could not therefore be involved in the debate on the patriation of our Constitution and had to remain neutral.

The Trudeau era was coming to an end. Perhaps for our friend Parliament had no more challenge or interest. He resigned to become chairman of the Transport Commission, a position which had lost some of its importance. Marchand decided then to return to Quebec City, the only place where he felt completely and truly at home.

I had called him following his recent accident. "It is very painful, and my body is literally covered with bruises but I am starting to feel better. By the way, I can tell you that perhaps it was a mistake to leave the Senate". I told him that the Senate might not be the same today if he had chosen to remain—

As is the life of any other individual, that of Jean Marchand is a picture of lights and shades. The lights are what make it beautiful. His were so bright, so generous, that they raised in us a feeling of well-justified admiration, but also a moving affection.

To his daughter, his sister and to the relatives of a friend, I offer my deepest sympathy.

[*English*]

Hon. H.A. Olson: Honourable senators, I want to be associated with the tributes that have been paid to the Honourable Jean Marchand this afternoon. I do not want to repeat them, but I wish to comment on one other aspect of Jean Marchand's career, because I served in the same cabinet with him for nearly five years, from 1968 to the end of 1972. It was my privilege to travel with him to many parts of western Canada—Calgary, Edmonton, Regina, Winnipeg and many other places—when he was minister of what was then known as DREE, the Department of Regional Economic Expansion. He will be remembered and appreciated by Canadians far beyond the borders of Quebec, although he claimed that he was fundamentally a Quebecer with a great respect and admiration for Canada.

On a number of occasions, honourable senators, when he had a specific message to give or an announcement to make, he would read from a prepared text or from notes that he had. But I remember in particular that in Regina, before a very large crowd, he set his notes aside and explained his vision of Canada. Of course, when speaking publicly he would always apologize for his inadequacy in the English language, although I thought he could explain better in English what the real meaning of Canada was than many people with a considerably better command of the language.

Indeed, the one question that was very often raised in the editorials and various other places in English Canada during those years was: "What does Quebec want?" They heard of the difficulties in Quebec when Quebec was going through what I think Senator Frith described as a new dynamism. In any event, whatever you want to call it, there certainly was a transition taking place in Quebec.

When Jean Marchand explained his view of what Quebec not only wanted but needed to cope with the changes that were

taking place there during this transition—in other words, what Quebec was going through—everyone who heard him, no matter where he spoke in Canada, both understood him and agreed with him. It was completely clear that they endorsed his vision, not only of Canada but of how Canadians should treat each other in order to become a stronger nation. He would then talk about the national unity that was so absolutely essential in order to achieve that.

Honourable senators, I thought I should add that today, because I believe that Canada has lost one of its outstanding leaders. We have lost a good friend and indeed a great human being.

[*Translation*]

Hon. Jacques Hébert: Honourable senators, I had the honour of being appointed to this chamber when Senator Jean Marchand was still its Speaker. Therefore I was delighted, as I was making my début here, to meet again with an old friend who at the same time would prove to be a generous counsellor. Being new in this chamber, I greatly appreciated benefitting from the advice of such an experienced politician.

For me, Jean Marchand has always been a ball of fire. That is why today I find it difficult to accept, to understand that he is no longer with us.

Since last Sunday, a great many personalities from Quebec and the rest of Canada have paid tribute to this unique man who has left an indelible mark on his generation and his time, as Senator Tremblay was saying a moment ago.

I met him for the first time when he was the leading figure in the labour movement which was still in its infancy in Quebec and constantly in conflict with the then provincial premier.

Undoubtedly, Jean Marchand will go down in history as one of the greatest union leaders that Canada has ever known. He not only transformed and modernized the great labour union that the CSN has become, but he was also one of the main architects of the so-called Quiet Revolution that saw the province of Quebec emerging from the dark ages.

● (1430)

Others, more competent than I, have talked about his long and productive political career in Ottawa culminating with his appointment as Speaker of the Senate.

In conclusion, I would like to mention some of his personal qualities that endeared him to his friends and which made him respected even by his political opponents.

Jean Marchand was a remarkably kindhearted and highly intelligent man. He was a passionate man with a remarkable sense of humour. He showed a fierce determination when defending causes that he felt strongly about, while remaining at all times a warm and considerate man. He could lash out in the course of political debate, but his bark was worse than his bite. He was called a man of the left, whatever that means. I agree if it means that his heart was in the right place.

To my mind, the word that would most aptly describe Jean Marchand is truthfulness. He was an upright man, the kind of man one seldom has the opportunity to meet in a lifetime. He will be sorely missed by myself, by his relatives and his close friends. All those who had the opportunity and the privilege to know and appreciate him will miss him, including many honourable senators here in this chamber. The province of Quebec will miss him. Canada will miss him.

[Senator Olson.]

Hon. Joseph-Philippe Guay: Honourables senators, I too would like to join my colleagues in the House of Commons and my fellow senators in expressing my sorrow at the loss of a great Canadian, a masterful politician and a French-Canadian who played a leading role in the advancement of bilingualism in Canada.

As Parliamentary Secretary to the Minister of Transport in 1972 and then as a fellow cabinet minister, I came to admire greatly this warm and courageous politician who was deeply committed to his many endeavours.

The Honourable Jean Marchand was well liked, well known and admired by the people in western as well as eastern Canada. He was an eloquent man who sought to build a strong Canada and, for this, he will go down in our history.

These few words do not do full justice to the numerous accomplishments of this great Canadian, but I wanted very much to say how proud I am at having known this wonderful man and for having worked side by side with him.

To his family, to his daughter Marie-Ève in particular, I offer my sincerest condolences.

[*English*]

Hon. Joyce Fairbairn: Honourable senators, I too would like to add a few words about a very old and dear friend, the late Jean Marchand. In the House of Commons, where I worked for many years, there was a saying, "If you want heart and passion for Canada in a debate, ask Jean Marchand to give a speech." And so he did time and again. For many years he mesmerized those who heard him speak about Canada as a Quebecer.

It is difficult to overemphasize the importance of the effect Jean Marchand had on the course of national unity in our country. Sometimes we tend to forget the uneasiness that existed on Parliament Hill in the sixties, as French and English tried to find an accommodation with each other. It took a great deal of very special courage and commitment on his part to come from his beloved province to Parliament Hill and into a situation which must have seemed cold and sometimes lonely to this vibrant, gallant gentleman.

I have recalled many times over the last few days memories of Jean. I will remember most particularly, as will all of you, those twinkling eyes, the little laugh and the incredible loyalty he had to his province, to his country, but, most importantly, to his friends. He was truly a splendid gentleman and a great Canadian. We shall miss him.

[*Translation*]

The Hon. the Speaker *pro tempore:* Honourable senators, let the Chair join you all in extending my most sincere

sympathy to the Marchand family, bereaved by the demise of Senator Marchand, a former Speaker of the Senate.

Parliament will long remember his major stands on bilingualism, the French fact and Quebec's role within the Canadian federation.

As others have said, he was a fighter, always ready for battle when convinced of a just cause. A man of commitment, he seldom minced his words, and Quebecers always will be grateful for the tenacity he showed in his labour struggles.

Honourable senators, Canadians today realize that Senator Marchand made an exceptional contribution to his country's political life.

[*English*]

I think it appropriate that we remain silent for one minute in his memory.

The members of the Senate then stood in silent tribute.

AIR DISASTER

RAMSTEIN AIR BASE, WEST GERMANY—COLLISION OF ITALIAN AIR FORCE DEMONSTRATION TEAM AIRCRAFT—CONDOLENCES

Hon. Peter Bosa: Honourable senators, I should like to offer my condolences, and the condolences of the Senate of Canada, to the families of the victims and to the survivors of the terrible disaster that took place at Ramstein Air Base in West Germany. Participating in a public air show at the base, three jet aircraft of the Italian Air Force demonstration team, *Frecce Tricolori*, collided. Tragically, one aircraft crashed into the crowd, killing more than 40 spectators and injuring hundreds.

• (1440)

Honourable senators, I was very much involved for several years in promoting a tour of the *Frecce Tricolori* to Canada. They came here in 1986 and performed flawlessly and thrillingly in different parts of Canada, including the Canadian National Exhibition in Toronto, where over 300,000 spectators attended. I came to know most of the members of the Italian team and to appreciate their professionalism, expertise and sense of responsibility.

As a school of aerobatics, the *Frecce Tricolori* is more than 50 years old, and the team is one of the best in the world. Three members of the team were killed in the tragedy, and I knew them all: Lieutenant Colonel Mario Naldini, Lieutenant Colonel Ivo Nutarelli and Captain Georgio Allessio. I am sure honourable senators will join me in offering condolences to the families of these men as well as to the families of the victims who died while attending the show.

INDIAN ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-123, to amend the Indian Act (minors' funds and surviving spouse's preferential share).

Bill read first time.

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

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

INDIAN ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-150, to amend the Indian Act (death rules).

Bill read first time.

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

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

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-148, to establish the Canadian Centre for Management Development and to amend certain acts in consquence thereof.

Bill read first time.

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

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

[*Translation*]

NATIONAL CAPITAL ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-153, to amend the National Capital Act.

Bill read first time.

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

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

TAX COURT OF CANADA ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons

with Bill C-146, to amend the Tax Court of Canada Act and other Acts in consequence thereof.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, September 1, 1988.

[*English*]

INCOME TAX ACT AND RELATED ACTS

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-139, to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related acts.

Bill read first time.

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

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

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-264, to amend the Criminal Code (instruments and literature for illicit drug use).

Bill read first time.

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

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

[*Translation*]

HERITAGE RAILWAY STATION PROTECTION BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-205, to protect heritage railway stations.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Thursday next, September 1, 1988.

[The Hon. the Speaker *pro tempore.*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-SECOND REPORT OF COMMITTEE PRESENTED

Hon. Roméo LeBlanc, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, August 30, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTY-SECOND REPORT

Your Committee recommends that the Senate Administration design and utilize proper requisition forms to be used by Senators and staff with respect to supplies and services requested at Senate Stores. A simple requisition form will be used for minor orders for office supplies and stationery and a more detailed form will be used for other requests.

Respectfully submitted,

ROMÉO LeBLANC
Deputy Chairman

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

On motion of Senator LeBlanc (Beauséjour), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1450)

[*English*]

THE SENATE

DELAYS IN CONSIDERATION OF LEGISLATION—NOTICE OF INQUIRY

Hon. William M. Kelly: Honourable senators, on Thursday next, September 1, 1988, I shall call the attention of the Senate to the question of delays in the consideration of legislation in the Senate.

Senator Olson: Do you think you have a case?

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER FROM CHAMBER

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Murray is not here today, but I shall be pleased to take as notice any questions honourable senators wish to place.

CANADA-UNITED STATES RELATIONS

TREATMENT OF CANADIAN CIRCUIT BOARDS BY UNITED STATES CUSTOMS—REQUEST FOR ANSWER

Hon. Philippe Deane Gigantès: Honourable senators, I should like to ask the Honourable Deputy Leader of the Government in the Senate to remind the Honourable Leader of the Government about my question with regard to the harassment of Canadian hi-tech exports at crossing points along the border. This issue was raised in a program aired on the CBC show *The Journal*, which indicated that Canadian exporters were being accused, according to them wrongly, of having stolen U.S. patents and using them in their products. The Honourable Senator Murray had promised to look into this issue and to let me know what he had found. I should be grateful if I could be given a progress report.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I shall certainly pursue the matter.

AGRICULTURE

ALBERTA—DROUGHT RELIEF PROGRAM—CRITERIA FOR QUALIFICATION

Hon. H.A. Olson: Honourable senators, I wonder if Senator Doody would be good enough to ask again for a report from those in the administration responsible for the drought relief program announced by the government back in June. I have asked several people for information, including representatives of the Prairie Farm Rehabilitation Association, which, I understand, is administering the program for the federal government. I have asked a number of times if producers could be given some idea of what the criteria are to qualify for the various aspects of the drought relief program.

For example, it was announced that there would be a payment of up to $60 per head on cattle, but so far we have been given no indication of how that payment will be arrived at. We have learned that "up to $60" does not mean that the producer will necessarily receive $60; it means that he may get from one cent to $60. There will be a formula of some kind to determine the amount. It was also announced, or indicated, that there would be some kind of acreage payment. Obviously the payments would be different for different areas, depending on the severity of the drought. So far I have been unable to get an answer from the administration as to what is involved.

Another reason it is important to know the criteria is that some of the assistance, I have been given to understand, will involve an initial payment and a final payment contingent upon certain actions taken by producers some time in the spring of 1989. For example, producers of livestock will be obliged to apply for forage insurance if they want to get their final payment.

• (1500)

Honourable senators, I will not go into the remainder of the details. I merely wanted to give a couple of examples so that the deputy leader could communicate with the Department of Agriculture and, using his great influence and persuasion, obtain the answers. Now, at least, he has some indication of the kind of reply we need. In other words, because we are approaching the stage where producers of livestock have to know what management decisions they should be making from here on to the end of the year—such as how many cattle to carry through the winter, it would therefore be well if we could know now what the qualifying criteria for these benefits will be.

Hon. C. William Doody (Deputy Leader of the Government): I will certainly bring the honourable senator's comments to the attention of the appropriate authorities and try to get the information. I sincerely hope that the examples the honourable senator gave are more accurate than his description of my influence and powers of persuasion.

TRANSPORT

SHIPMENT OF GRAIN THROUGH PORT OF CHURCHILL, MANITOBA

Hon. Joseph-Philippe Guay: Honourable senators, my question to the Leader of the Government in the Senate relates to the Port of Churchill. As he is probably aware, many people in Manitoba, including the Government of Manitoba, are most concerned about the fact that no grain is being shipped through the Port of Churchill at the moment.

Therefore, I would request, through the Deputy Leader of the Government, that the Leader of the Government in the Senate make representations on behalf of the western grain farmers of Manitoba and Saskatachewan to the minister responsible for the Canadian Wheat Board to give serious consideration to the possibility of shipping grain through Churchill. This would be a golden opportunity for benefiting farmers, because it is cheaper to ship through that port than elsewhere. I am sure western Canadians would certainly appreciate it if serious consideration were given to this proposal.

Will the Deputy Leader of the Government make appropriate representations to the Leader of the Government in the Senate?

Hon. C. William Doody (Deputy Leader of the Government): I certainly will, senator. I shall also try to get the information requested.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-264, to amend the Criminal Code (instruments and literature for illicit drug use).

He said: Honourable senators, this particular piece of legislation is a private member's bill introduced in the other place by Dr. Bob Horner, the MP for Mississauga North. I would

emphasize that I was pleased when he contacted me and asked me to present it in this chamber.

The bill deals with the sale of paraphernalia associated with the consumption of illicit drugs and with the reading material that is also available in certain shops.

I should say at the outset, to answer those who generally would raise the question, "Will this particular piece of legislation completely stop the sale of this sort of material?", that the answer has to be, "No, it will not." Much of this material, or at least some of it, such as cigarette papers, paper clips, razor blades or any one of a dozen other commonplace items that are used in this trade, will still be available in other stores.

What is important about this particular bill is that it will remove the very obvious endorsement, as it were, of society's willingness to supply the equipment used in the consumption of illegal drugs, while at the same time banning the substances themselves. As has been pointed out to me and to others, it is a very difficult selling job to convince people that the legislators, the authorities of this country, take seriously the problem of illicit drug use by young people and by adults as well, when they openly condone the sale, on any street corner, of materials that are clearly meant for use in the consumption of the products.

I am told that one can walk into one of these stores and buy a recipe book, as it were, which tells one how to manufacture crack. Like buying a package of cake mix, the recipe is on the side of the package. You can also buy marijuana seeds with instructions on to how to grow your own. I am told that it does not take any great agricultural genius to be able to produce a very tidy crop in one's own basement or backyard with the assistance of the instructions that come with the package of seeds.

This sort of thing is clearly unacceptable. I am told that for nine years local and other police forces have been asking legislators to pass a bill to ban the sale of these appliances and of this literature with a view to sending a clear signal across this country to the parents and to the potential users that the legislators are concerned about the problem and are willing to take steps to correct it. I think the message itself is probably just as important as the legislation. For far too long the problem has been one to which lip service has been paid by the authorities in Canada. Serious application of this disapproval has never really come forth.

This morning two gentlemen from Carleton University gave me some material on the use of drugs in this country. Quite frankly, much of the information is quite startling to me. Perhaps, living in Newfoundland, I do not see the problem as clearly as those who live in other parts of this country. These people work with the Drug Awareness Program in the Faculty of Social Services and are taking positive steps to create a focus for the various groups who are concerned, and who have good reason to be concerned, about the use of illicit drugs in this country.

I note here that there are approximately 2 million to 2.5 million Canadians using illicit drugs in Canada on a regular basis. Of those, 300,000 to 500,000 can be defined as addicts. It is estimated that there are 75,000 cocaine users in Toronto and 20,000 heroin users. In Montreal law enforcement agencies estimate that there are 65,000 cocaine users and 5,000 to 10,000 heroin addicts. In Vancouver heroin is a major problem, with an estimated 16,000 to 20,000 hard-core addicts; up to 20,000 casual users; and some 40,000 cocaine users.

Another rather frightening and tragic statistic is that experts estimate that more than 50 per cent of teenage suicides are drug related. The use of cocaine among Canadian youth has doubled in the last five years.

It should be emphasized that, although much of the attention and many of the articles I have read seem to suggest that this is a youth problem, I am told, nevertheless, that over 60 per cent of the regular illicit drug users in our country are adults—that is, people who are well over the defined age of youth.

This information indicates that now in Toronto, Montreal and Vancouver—and presumably it will spread to other cities in our country—the use of give-away drugs to young children in schoolyards is a common practice to encourage young kids of 8, 10 or 12 years of age to use these drugs on a free basis so that they can build up an addiction or a habit and become regular users. There has been a tremendous increase in the use of children under 12 years of age as runners, dealers and distributors of these drugs, because, of course, under the Young Offenders Act the risk of punishment is not nearly as great. Therefore, the runners use these kids quite regularly.

Honourable senators, the list of statistics and facts that these people were kind enough to give me is one of the most tragic pieces of literature I have had to read in some time. I think it is high time, indeed, as I said a few moments ago, for legislators to demonstrate their concern to the police, to the parent-teacher associations and to the various groups who are operating in a positive way across this country in trying to combat this terribly tragic situation.

The chairman of PRIDE called me this morning. I have also been called by various school board presidents and members, by the Canadian Home and School Association, the Canadian Parent-Teachers' Association, the Ontario Association of Principals, and the Ontario Secondary School Principals' Council. There is an ongoing list of people who have suddenly taken a great deal of comfort and heart from the fact that a bill has finally been introduced, and appears to be in the process of passage, that will demonstrate the legislators' endorsement of their efforts over the years.

● (1510)

Honourable senators, if this bill does go to committee, and I suspect that it will probably go to the Standing Senate Committee on Legal and Constitutional Affairs, I would urge that it be dealt with as quickly as possible, because the message of having the legislation passed by Parliament is almost as important as the legislation itself. For too long these people have been working on their own to combat this terrible situation in

our country, with very little endorsement by the various levels of government in Canada.

Although Jake Epp, the Minister of National Health and Welfare, introduced for the first time a little while ago a drug combat strategy for government, very little has come from that as yet. It is a relatively new concept, but one that is very welcome. However, this piece of legislation of Dr. Horner's certainly complements that initiative. He is to be commended for it, and I commend the legislation to your attention.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we support this legislation.

Last Thursday I had a telephone call from Fred Burford, who was at Victoria College, University of Toronto, with me many years ago. He told me about this private member's bill that had been passed in the House of Commons, and, when I told him that I was going to be in Toronto on Friday, he suggested that he show me one of these head shops. So he picked me up downtown about noon. We had lunch with Chief Superintendent Dickins of the RCMP at "O" Division Headquarters, with an inspector in charge of drug enforcement, and with a female plainclothes member of the mounted police. I received quite a briefing, including a lot of documentary evidence from Fred and from the RCMP personnel with whom I lunched.

Those of you from Toronto know that the "O" Division Headquarters is not very far from Yonge Street; it is at the corner of Jarvis and Dundas. Yonge Street north of Dundas is a popular area for these head shops. So we went over to a head shop and I was shown some of this material.

Now, it is pretty hard for the uninitiated—and I assure you I am among that group—to see exactly how these things can be used. The young policewoman tried to show me, in the case, how a glass pipe is used. The most serious things seem to be the paraphernalia that enable cocaine to be reduced or distilled, whatever the right verb is, into crack. We know, particularly from watching American television programs, how serious the crack problem is in the United States. Obviously, as Senator Doody has said, it is a real problem here as well. I then spoke to the proprietor and told him that this legislation was coming up, and, in the tradition of *audi alteram partem*, listening to the other side, I told him that I expected that the bill would be passed this week and that it would be going to committee, and that if he wanted to make representations he should call me, and I gave him my phone number. At that point the Canadian Broadcasting Corporation television crew came in.

Senator Barootes: You looked good on TV!

Senator Frith: They had just been across the road at another head shop and they asked if they could interview me, the mountie and Fred Burford. They did not interview the mounted policewoman, but they did interview Fred and me. I did not see the program, but I did watch it on our demand video. As it came out, I am sure that many of my friends across the country thought I was in there stocking up before the place got padlocked. However, what really happened is what I have told you.

As a result of this research and a number of phone calls, as well as a meeting I had yesterday with the two gentlemen from Carleton University who went to see Senator Doody, I have reached the following conclusions:

First, it is indeed bizarre that it should be legal to sell paraphernalia to create narcotics that are illegal and to sell books to show how to do so.

Second, society is sending a dangerously mixed signal to young people and other potential drug users by saying it is illegal for them to use this drug because it is immoral, but it is perfectly legal, and therefore moral, to sell paraphernalia for the production of the drug.

Third, we must consider the other side of the question. The businessman I spoke to, who was also interviewed on the program, said simply, "I hope you will make it clear what we can sell and what we cannot sell. What we cannot sell, we will not sell. What we can sell, we will." The shop I saw sold many other things, such as T-shirts and so on; so I take it that no one is in this business solely and that no one will be put out of business. The merchants do not seem to be concerned that they will be. If they were, I suppose it would be desirable anyway. However, it is important that the legislation be examined by a committee, because, looking at the other side of the question, we certainly do not want to pass legislation that is unnecessarily broad and that could result in unfair and unreasonable harassment.

Fourth, is there any direct link between passing this bill and eradicating drug use? As Senator Doody has said, the answer is no, it will not have that effect. I suppose that is one of the arguments against the bill. I understand that the New Democratic Party in the other place opposed the bill. Perhaps that is the reason they did. However, that is not the raison d'être or the justification for the bill. The justification arises from the points that I think Senator Doody made and that I hope I have made.

Perhaps some of the most important work is done by all the citizens out there who are like Fred Burford. Fred is a retired high school principal. He has been active in this field his whole professional life and particularly for the nine years that this legislation has been sought. He is president of the Council on Drug Abuse, a volunteer group. PRIDE, the group that called Senator Doody, also called me. There are also the Parents Against Drugs.

● (1520)

It seems to me, honourable senators, that we have to see this bill in context. Drug enforcement police work, effective though it can be, will never stop or even substantially reduce drug use. Arresting the pushers is not going to do that if the market is still there. There will always be another pusher ready to sell to an eager market. What can reduce it, perhaps not completely eradicate it but reduce it and prevent it from becoming the problem that it is in many countries, is action by volunteers, parents, workers all across this country, fellow Canadians, who

are prepared to spend the time and effort that they are obviously prepared to spend to try to arrest, reduce and even come close to eradicating this pernicious practice. It is for them, who have worked for nine years to get this small bit of encouragement and who need the encouragement to go on to climb the much more difficult mountains that lie ahead of them, that we should pass this legislation.

I think we should record our gratitude to them for the work they have done and for the work they have promised to do.

I believe this bill should be examined by the committee. I believe the committee is prepared to examine it this week. Certainly, if it is ready to report later this week, we would support giving this bill third reading and Royal Assent.

Two questions occur to me to ask in committee. The main one is: Why is this bill not a government bill? I am sure that someone—Dr. Horner or whoever appears—can explain that. Secondly, can someone from the Department of Justice assure us that there are no reservations on the part of the Department of Justice or the law enforcement agencies about this bill?

The other reason for having this bill referred to committee is to give anyone who wants to present the opposite side, if there is an opposite side, an opportunity to do so.

Honourable senators, I hope the committee can find a way to conduct an adequate study this week. If it can, then I believe the bill should be given third reading later this week and receive Royal Assent in due course.

Hon. H.A. Olson: Honourable senators, I only want to raise one matter with respect to Bill C-264, and that relates to the proposed prohibition of the sale of what has been described as "drug paraphernalia". In the bill itself that comes under the interpretation clause, the new proposed section 420.1, with the definition of "instrument for illicit drug use". It states in the proposed section:

> "Instrument for illicit drug use" means anything designed primarily or intended under the circumstances for consuming or to facilitate the consumption of an illicit drug, but does not include a "device" as that term is defined in section 2 of the *Food and Drugs Act*;

Unfortunately, I am in the position of not knowing what is "a 'device' as that term is defined in section 2 of the *Food and Drugs Act*".

What I am concerned about is that there are paraphernalia, particularly hypodermic syringes, used extensively in veterinary use. Those are also sold, from time to time, by these so-called "head shops". I hope that there is careful drafting of the regulations so that passage of this bill does not severely inconvenience people who need hypodermic syringes for veterinary use.

Senator Frith: Or pharmaceutical use.

Senator Olson: I think that that is included in the term "as that term is defined in section 2 of the *Food and Drugs Act*".

I really ought to be better informed than I am, but I am not sure that veterinary use of these devices is covered under section 2 of the Food and Drugs Act. I can tell honourable senators that in a few minutes I will check the act to determine that, but I am not sure of that right now.

Senator Frith: That is something that can be raised in committee.

Senator Olson: I also raise the point so that those who will draft the regulations will be careful to achieve the desirable aspects of this bill without imposing severe inconvenience on people who need such things.

Senator Flynn: It does not say anywhere that regulations will be enacted.

Senator Olson: Senator Flynn will recognize that what Bill C-264 does is amend the Criminal Code. What it is doing is changing some of the interpretations in the Criminal Code and making it an offence to sell certain types of instruments—instruments which have been referred to as "drug paraphernalia". I hope that when the regulations are drawn up to administer these amendments to the Criminal Code they will not make it impossible for feed stores and veterinary supply stores to supply these things to people who need them for their livestock requirements.

Senator Doody: Honourable senators—

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

Senator Doody: I should like to thank you for your support for this particular piece of legislation. I accept the fact that, as Senator Frith has pointed out, this is not going to change the habits of many Canadians. People who are addicted, or who have their minds made up, will find the implements they need to pursue their habits. I think that that is a "given" in this situation.

What is of major importance here is that a signal be sent out to all Canadians that the use of these sorts of devices is not accepted practice in this country.

What we have to do is remove the social acceptability of these so-called "recreational drugs". That term, in itself, I find most distressing. There is nothing recreational about a 15- or 16-year old kid who has tried crack. I have been told that once you have tried this particularly odious substance, crack, there is a 70 per cent chance of becoming addicted.

Not only do the so-called "head shops" sell the paraphernalia to reduce cocaine to its base form, which, in effect, is the substance crack, they also provide a set of instructions on how to do that. They sell baking soda as an additive to reduce this substance, and with the baking soda comes a set of instructions on how to cook cocaine. Obviously letting this sort of thing continue with the consent and approval of the legislatures of Canada is not an acceptable state of affairs. This legislation sends that message out.

I am not suggesting that all of the people who operate these retail stores are bad people. Far from it; they are making a living. They are allowed to sell the stuff. It is a good commercial operation, and they sell other things, such as souvenir

mugs and T-shirts, as Senator Frith has said. There are all sorts of items in those stores. But there are also big display cases of this gear. It has to be banned, and it has to be banned through law. The first step in making it socially unacceptable is to ban the paraphernalia that is to be used.

● (1530)

I fully concur with Senator Olson that we should make absolutely certain that innocent people are not caught in the snares when this legislation is enacted and proclaimed. To that end, the committee can ask the question about the veterinarians' usage of certain items, and it can ask about any other problems that might arise.

As I said in the beginning, honourable senators, the message that goes out to the users, to the sellers and, perhaps even more importantly, to those lonely people who have fought so long who are close to the problem—the parents, the parent-teacher groups, the school teachers, the principals and the law enforcement people—is that at long last there is something definite and concrete coming forth from the legislatures of Canada. I think that that is just as important as the legislation itself.

Hon. Senators: Hear, hear!

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Doody, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

UKRAINE

MILLENNIUM OF CHRISTIANIZATION

Hon. Stanley Haidasz rose pursuant to notice of Wednesday, July 20, 1988:

> That he will call the attention of the Senate to the historic event of the Millennium of the Christianization of the people of Ukraine.

He said: Honourable senators, I welcome this opportunity to speak on my motion of inquiry calling the attention of all honourable senators to the historic event of the Millennium of the Christianization of the people in Ukraine. As celebrations commemorating the Millennium of Christianity in Ukraine are reaching their climax this summer, I should like to draw the attention of all honourable senators to the religious significance and the political impact of this historic event.

Although Christianity was brought to the southern and western Slavs 20 to 30 years earlier by Saints Cyril and Methodius, it was in the year 988 that Princess Olga's son, the great Prince Volodymyr, the ruler of Kievan Rus, adopted the Christian faith as the religion of his nation. This young warrior also established peace in this turbulent medieval state of Kievan Rus, from which Ukrainians, Byelorussians and Russians trace their historic and religious heritage.

But the Christianization of Kievan Rus also had its political side. According to the *Nestorian Chronicle*, Prince Volodymyr, before he finally opted for eastern Christianity, reviewed the other religions—Judaism, Islam and Latin Christianity. However, Tenth Century "realpolitik" played a part in his final decision. By embracing Byzantine Christianity and marrying the emperor's daughter, Volodymyr acquired for himself a powerful political protector. At the same time, however, he unwittingly drew a cultural frontier across Europe, between Rome and Byzantium, that has outlasted shifting political frontiers.

Ukrainian Catholics throughout the world worship in the Byzantine rite—one of 18 canonical forms of worship in the Catholic Church. It is also the rite followed by the Orthodox Christians. The baptism of Kiev came several decades before the schism of 1054 which finally breached relations between Orthodox Christians and Catholics. In the year 1596 the Union of Brest brought a large part of the eastern Christians, of what are now Ukraine and Byelorussia, back into communion with Rome. The acceptance of Christianity profoundly altered the further course of Ukrainian history, significantly determining the development of Ukrainian culture and giving rise to a wealth of spiritual and social values.

In modern times Joseph Stalin, the Communist dictator of the U.S.S.R., began dismantling the Ukrainian Orthodox Church in the year 1922, completing it in 1930. At that time the Ukrainian Catholic Church was strong in western Ukraine, which then was under Polish rule until it was captured by the Soviets after the Second World War, in 1945.

Upon taking over, the Soviet authorities arrested all eight bishops of the Ukrainian Catholic Church. Approximately 1,500 priests were imprisoned or killed. Most churches and all monasteries were closed, along with convents and educational institutions. In the year 1946 the Soviet government delegalized the Ukrainian Catholic Church and forced its unification with the Russian Orthodox Church. The Communist government judged it at that time unacceptable to have a church with outside ties to Rome, but neither the Vatican nor the Ukrainian Catholic Church in the rest of the world recognized this forced unification, so the Ukrainian Catholic Church had to go underground.

It has become the modern church in the catacombs. As the Reverend R.G. MacNeil wrote in July in one of the Ottawa newspapers, those who wanted this Church to disappear are claiming its millennium as their own, but the Church which they thought they had destroyed is very much alive and present to celebate 1,000 years of Christian worship and service in the homeland and around the world.

● (1540)

As far as Canada is concerned, the Ukrainian Catholic Church is a thriving religious body serving more than 259,000 Catholic Ukrainian Canadians who belong to the Byzantine rite of the Catholic Church, which is organized into six eparchies. Their metropolitan or head bishop for Canada is the Most Reverend Maxim Hermaniuk, Arch-Eparch of Winnipeg. Their world leader is Cardinal Myroslav Ivan Luba-

chivsky. In Canada the honorary patron of the millennium year is Her Excellency the Governor General of Canada, Jeanne Sauvé. The inauguration of this celebration took place here in Ottawa in the rotunda of the Parliament Buildings in the presence of the Deputy Prime Minister, the Honourable Don Mazankowski, several parliamentarians of all political parties, Metropolitan Maxim Hermaniuk of the Ukrainian Catholic Church, Metropolitan Wasyly of the Ukrainian Orthodox Church, and representatives of the Ukrainian Canadian Committee.

For the U.S.S.R.'s Christians, this jubilee is a source of joy and inspiration, but, for Gorbachev and his atheistic colleagues of the Kremlin, it is a considerable challenge. According to Bohdan Nahaylo, who spoke at a conference on "Christianity in the East Slavic lands" that was held at the University of London, England, last month, this millennium weaves together religion, nationalism, human rights, and political and state relations with the Vatican in such a way that it seriously tests the Kremlin's avowed commitment to glasnost and democratization and also brings into focus the continuity in Moscow's policies towards the U.S.S.R.'s two large Slavic non-Russian nations—namely, the Ukrainians and the Byelorussians.

Honourable senators, it is interesting—indeed edifying and inspiring—that after 70 years of Communist rule in the U.S.S.R. religion is still alive. The imposition of regulations closely restricting religious activity, relentless anti-religious propaganda, and several assaults on churches have failed to eradicate belief in God. Instead, they have produced a resilient strain of faith tempered by persecution and martyrdom. Here I would like to mention the heroic and holy figures of Bishop Romza, who was killed in the Ukraine, and Cardinal Josyp Slipyj, who after many years was released from prison, and headed the Ukrainian Catholic Church from Rome. Cardinal Slipyj visited Ottawa in 1973, and I, as Minister of State for Multiculturalism, had the privilege of acting as host to him at that time. He died recently in his nineties. He was regarded not only as a holy man but also as the patriarch of the Ukrainian Catholic Church.

Honourable senators, in these more hopeful days of glasnost, perestroika and democratization in the U.S.S.R., it is all too easy to forget that, apart from the officially recognized religious communities in the Soviet Union, whose leaders have agreed to act within the narrow limits prescribed by the state, there are entire catacomb churches, whose members, along with numerous other religious dissidents, Orthodox, Catholics, Protestants—not to mention those of the Jewish, Muslim and Buddhist faiths—daily risk arrest, vilification and harassment. Even today, when some more prominent religious dissidents have been freed as part of Gorbachev's democratization campaign, several hundred religious believers are still known to be imprisoned or locked up in psychiatric hospitals. An unforeseen result of glasnost, however, has been that both religious dissenters and respected members of the Soviet intelligentsia—people like Dmitri Likhachev—are openly challenging this policy and calling for a loosening of restrictions. Unable to ignore something as important as the millennium of the christening of Kievan Rus, the Kremlin has been trying to make the most of the occasion for its own political ends. This has been facilitated by the cooperation of docile Russian Orthodox leaders, who were brought into line long ago through the use of brute force or by being bought off with privileges.

[Senator Haidasz.]

What particularly annoyed the Kremlin was the fact that in March of 1979 the newly elected Pope, John Paul II, issued a formal letter to the head of the Ukrainian Catholic Church, Cardinal Josyp Slipyj, calling upon the Ukrainian Catholic hierarchy to prepare for the millennium of the baptism of Kievan Rus. This acknowledgment of the Ukrainian dimension of the jubilee, the interest which the Vatican was demonstrating in the anniversary, as well as the Pope's defence of the rights of the Ukrainian believers to freedom of conscience, triggered a sharp response from the official Soviet press, which complained that emigré Ukrainian nationalists were out to exploit the millennial jubilee for anti-Soviet purposes.

As the celebration of the millennium progressed, the Moscow Patriarchate depicted this anniversary as a purely Russian event and claimed to be the sole heir to the millennium. Challenging this, the underground Ukrainian Catholic Church, Ukrainian dissidents, and the large Ukrainian Catholic and Orthodox Churches in the west emphasized that the State of Muscovy did not arise until the thirteenth century and that the name "Russia" was not adopted by its leaders until the time of Peter the Great. They claimed that Moscow had usurped the historical and cultural patrimony of Ukraine and Byelorussia.

The biggest problem for the Kremlin is the recent resurgence of the catacomb Ukrainian Catholic Church and the support given to it by Pope John Paul II. The Ukrainian Catholic Church has managed to survive in the underground and, on the eve of the millennium, has put the Kremlin on the spot by taking advantage of glasnost to press for legalization. The Kremlin is averse to restoring an institution that it identifies with Ukrainian nationalism, while the Moscow Patriarchate knows and fears that any concessions to Ukrainian Catholics threaten to undermine its position. The Vatican has a further stake in the millennium, because the baptism of Kievan Rus took place before the Great Schism of 1054 which divided the Christian world into the Latin or Roman camp and the Orthodox or Byzantine sphere. Pope John Paul II had always made it clear that he would like to visit the Soviet Union for the millennium celebrations; but he was not prepared simply to endorse the Moscow Patriarchate's interpretation of the anniversary, nor was he prepared to be prevented from visiting Lithuania at the same time.

● (1550)

Pope John Paul II put further pressure on the Kremlin and the leaders of the Russian Orthodox Church when he engineered an historic reconciliation in Rome between the leaders of the Polish and Ukrainian Catholic Churches. In February of this year the Pope addressed a special letter to the Ukrainian Catholic Church in which he praised the courageous way it has remained loyal to its faith.

On May 30 of this year President Ronald Reagan of the U.S.A., in a brief speech delivered at the Danilovsky Monastery near Moscow, expressed the hope that:

> All the many Soviet religious communities that are prevented from registering or are banned altogether, including the Ukrainian Catholic and Orthodox Churches, will soon be able to practise their religion freely and openly, and also instruct their children in and outside the home in the fundamentals of their faith.

On June 3, during a remarkable officially-sponsored press conference, the great human rights activist, Andrei Sakharov, condemned the archaic ban on the Ukrainian Catholic Church, adding that it not only violated the rights of many Ukrainian believers but also damaged the international prestige of the U.S.S.R.

Clearly, the campaign of the Ukrainian Catholics for legalization and the response that it has found at such a sensitive time, both inside and outside the U.S.S.R., has been a source of considerable embarrassment and irritation for both the Moscow Patriarchate and the Kremlin rulers. To illustrate this, I should like to bring to the attention of honourable senators that earlier this year a U.S.A. congressional resolution of the Senate and the House of Representatives passed unanimously a special resolution asking for the legalization of the Ukrainian Catholic Church and the Ukrainian Orthodox Church. This was condemned by the Soviet government, especially by ten deputies of the Supreme Soviet of the Ukrainian Soviet Socialist Republic, in a confidential statement to Vice-President George Bush and House Speaker Jim Wright.

Pope John Paul II was clearly disappointed in not being invited to the millennium celebrations in the Soviet Union. However, he presided over the Vatican ceremonies held in St. Peter's Square last month, concelebrating with Ukrainian bishops and priests from around the world, attended by 75,000 pilgrims. In his message delivered in flawless Ukrainian, speaking on behalf of 3 million exiles and more than 5 million Ukrainian Catholics in the Soviet Union who are forced to worship in secret, the Pope appealed to the Kremlin ruler to recognize the rights of the Ukrainian Catholics and expressed the hope of reconciliation between the Catholic and Orthodox Churches.

Activist Stefan Chmara, a member of the Committee for the Defence of the Ukrainian Catholic Church, told a London correspondent in an interview that the Russian Orthodox Church "was a terribly chauvinistic organization, hostile to the Ukrainian people as a whole." He added that the Ukrainian problem was part of the unresolved nationality question in the U.S.S.R. He also said, "All other Catholics are recognized, but for political reasons, they won't recognize us. The Ukrainian Catholic Church is a national church. Without it, you can't talk about Ukrainian culture or spirituality."

At the millennium celebrations in Moscow last month, the Anglican Church was represented by the Archbishop of Canterbury. The Polish Catholic hierarchy sent Jozef Cardinal Glemp. The Vatican sent a powerful delegation, with a personal message from the Pope. The delegation, led by Secretary of State Agostino Cardinal Casaroli and accompanied by Johannes Cardinal Willebrands, met General-Secretary Mikhail Gorbachev, as well as President Andrei Gromyko and Foreign Minister Edward Shevardnadze. Although the initial response to the Pope's message was courteous and general, concrete action is being impatiently awaited by the Church and its believers.

Dr. Bohdan Bociurkiw, professor of Political Science at Carleton University in Ottawa, stated recently upon his return from Europe that the Ukrainian Catholic Church in the U.S.S.R. is still definitely banned, and, despite thousands of signatures collected by the underground clergy and believers, not a single Ukrainian Catholic community has been registered by the Communist authorities to operate legally. Bishops and clergy are still being harassed by police and fined 50 roubles for each mass celebrated. Furthermore, the authorities have been installing Russian Orthodox clergymen in hitherto vacant churches that had been used by Ukrainian Catholics.

Also, it is disappointing that the recent meeting in Helsinki between the representatives of the Vatican and the Moscow Orthodox Patriarchate has not achieved anything, except to set up a commission to study the problem of the Ukrainian Catholic Church in general.

Nevertheless, the new assertiveness of the Ukrainian Christians, the interest in the West in their situation and, of course, Gorbachev's proclamation of glasnost and democratization puts the onus on the Kremlin to review and change its policy towards the Ukrainian churches whether the Moscow Patriarchate approves or not. In the meantime, the millennium celebrations have demonstrated to the world that glasnost and democratization in the U.S.S.R. have still to be extended to issues of fundamental concern to many Ukrainians.

I should like to bring to the attention of honourable senators the first report of the Standing Committee on Human Rights of the House of Commons, entitled "Human Rights behind the Iron Curtain". The Standing Committee on Human Rights, which studied this problem last year and early this year, stated, among other things:

> International human rights law imposes both domestic and international obligations on states.

Further in its report, it quoted from Principle VII of the Helsinki Final Act, to which Canada is a signatory. Principle VII enunciates the freedom of religion in the following terms:

> The participating states will respect . . . the freedom of thought, conscience, religion or belief, for all . . .
>
> Within this framework the participating states will recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

It referred, as I did in my remarks earlier, to the persecution of the Ukrainian Orthodox Church, the Ukrainian Catholic Church and other religions in the U.S.S.R., including the plight of the Soviet Jews.

• (1600)

The report, I should also like to mention, refers to that proposed Moscow conference on humanitarian cooperation, which, in November 1986, was put forward by the Moscow delegation. It wants this meeting to be held in Moscow.

However, the report of the committee of the House of Commons states that:

> The Government of Canada has not yet taken a position on the Moscow conference. Such a conference should only be supported and attended if Helsinki monitoring groups are given legal status and their members are released from prison. Such a conference should also only be approved as part of a concluding document satisfactory to all participants in the Helsinki

—C.S.C.E.—

follow-up process.

Honourable senators, this millennium is an important event in world history, especially in the history of christianity. I invite all honourable senators to join me in appealing to the rulers of the Kremlin, especially General Secretary Mikhail Gorbachev, to legalize the Ukrainian Catholic Church, the Ukrainian Orthodox Church and the Ukrainian Autocephalous Orthodox Church, and also to stop its harassment and persecution of all religious denominations in the U.S.S.R. In this way we will help to bring about justice and peace. But to have justice and peace, nations must respect human dignity, human conscience, and religious freedom.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore:* If no other honourable senator wishes to speak, this inquiry is considered debated.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, August 31, 1988

The Senate met at 2 p.m., the Honourable Gerald Ottenheimer, Acting Speaker, in the Chair.

Prayers.

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Wednesday, August 31, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TWENTY-NINTH REPORT

Your Committee, to which was referred the Bill C-264, An Act to amend the Criminal Code (instruments and literature for illicit drug use), has, in obedience to the Order of Reference of Tuesday, August 30, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN NEIMAN
Chairman

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

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

QUESTION PERIOD

TRANSPORT

REBUILDING OF TRANS-CANADA HIGHWAY IN NEW BRUNSWICK—COMMENTS OF MINISTER FOR INTERNATIONAL TRADE

Hon. L. Norbert Thériault: I have a question for the Leader of the Government in the Senate. As the Leader of the Government in the Senate is aware, the Council of Maritime Premiers has agreed that the rebuilding of the Trans-Canada Highway in the Atlantic provinces, especially through New Brunswick, is of the utmost importance. They have supported the Premier of New Brunswick in his request for major assistance from the national government.

Honourable senators, this comes about because this government has accepted a policy of removing rail lines and railroad services from Newfoundland, from P.E.I., and from a great many parts of Nova Scotia and New Brunswick. The end result is that almost all goods transported from the Atlantic provinces have to travel over the New Brunswick highways. I understand that it was the understanding of the Government of New Brunswick and the other governments in the Atlantic provinces that they were getting a favourable hearing in Ottawa.

Last week in Fredericton we had the pleasure of a visit from the Minister for International Trade. When he was asked a question regarding that subject matter, in his flippant way he said something to the effect that if he were in the Government of New Brunswick his hopes would not be high; in other words, the good reception that the Government of New Brunswick was seemingly having in Ottawa did not reflect government policy so far as the Minister for International Trade was concerned.

Would the Leader of the Government in the Senate advise the people of New Brunswick and Atlantic Canada whether the Minister for International Trade was speaking on behalf of the Government of Canada?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have not seen the comments that the honourable senator has attributed to my colleague, Mr. Crosbie.

First, let me say that Senator Thériault's statement of government policy with regard to rail lines is quite inaccurate. Active rail lines are not abandoned; rail lines are abandoned after shippers have taken decisions to ship their goods by road rather than rail, leaving those rail lines certainly unprofitable and virtually inactive.

As far as the Trans-Canada Highway is concerned, I have had discussions on this matter with the Premier of New Brunswick and his colleagues on several occasions. They are doing some work on the proposal.

However, I must state, for the record, that New Brunswick is the only province in the country that now enjoys two federal-provincial agreements on road construction within the province. However, neither of those agreements relates to the Trans-Canada Highway.

I am aware that the Province of New Brunswick and its sister provinces in the maritimes make the point that priority should be given to improving or reconstructing large portions of the Trans-Canada Highway in the maritime region. We will

have to consider that not as a matter of regional development but as a matter of national policy. It is only fair and candid to tell the honourable senator and the house that that will take some time. It is an expensive proposition that he is referring to, and he should not expect that we will have a deal this week or next.

Senator Thériault: Honourable senators, I was hoping that the Leader of the Government in the Senate would state flatly that the Minister for International Trade was not speaking on behalf of the government when he made that flippant statement in Fredericton. Do I gather from the ending of his response that the next election campaign will not bring about the promise by the federal government to help New Brunswick build a Trans-Canada Highway?

Senator Murray: Honourable senators, I wonder whether the honourable senator can give me that assurance on behalf of his party. I am not in a position to give that assurance on behalf of my party.

Senator Thériault: Honourable senators, I am not in that position either, but I can tell the Leader of the Government in the Senate that I will be putting all the pressure I can on the leader of our party and on the party to make such a commitment.

● (1410)

UPGRADING OF TRANS-CANADA HIGHWAY IN NOVA SCOTIA—GOVERNMENT COMMITMENT

Hon. John B. Stewart: Honourable senators, I have a supplementary question. We have all heard the response of the Leader of the Government in the Senate with regard to the Trans-Canada Highway in the province of New Brunswick. I would like to ask a question concerning an adjoining sector of that highway, the sector between the New Brunswick border and Truro, Nova Scotia. Has any commitment been made to the government of the province of Nova Scotia with regard to the upgrading or the doubling of that portion of the Trans-Canada Highway?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I seem to recall that an announcement was made some months ago by the Premier of Nova Scotia and, I believe, by the federal government, certainly in the context of the federal-provincial highways subagreement of that province, to the effect that the highway from Amherst to Truro would be twinned.

Senator Frith: Very good. You get two or three points for that one.

EXTERNAL AFFAIRS

CENTRAL AMERICA—LACK OF CANADIAN CONSULAR AND IMMIGRATION SERVICES

Hon. Richard J. Stanbury: Honourable senators, may I ask the Honourable Leader of the Government in the Senate whether he is aware of the tragic inadequacy of our consular and immigration services in Central America, and, if so, whether the government is in the course of doing something about it?

[Senator Murray.]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have seen the same news reports as my honourable friend apparently has, and I undertake to ask for a report on this matter from my colleague, the Secretary of State for External Affairs.

Senator Stanbury: Honourable senators, it may be worth while to point out that the Costa Rican Embassy is the only Canadian embassy in Central America. That embassy has only three immigration officers, but it is expected to look after refugee claims for Panama, Costa Rica, Nicaragua and El Salvador. El Salvador alone produces 10,000 immigrant inquiries or applications per year, and, presently, Panamanians are lining up at the honorary consulate in Panama at the rate of about 500 per day. I gather that they are not being serviced at all. I draw those facts to the attention of the Leader of the Government in the Senate.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to a number of questions.

There was a question on July 13 by Senator Guay regarding Transport—Port of Churchill, Manitoba—Maintenance and Use of Facilities. On August 16 questions were asked by Senator Stanbury regarding the Environment—Deadline for Elimination of Lead in Gasoline; Senator Molgat regarding Transport—Shipment of Grain Through Port of Churchill, Manitoba; and Senator Olson regarding Agriculture—Dispersal of Breeding Herds in Drought-Stricken Areas—Tax Deferral on Livestock Sales.

On August 17 questions were asked by Senator Grafstein regarding Justice—Prosecution of Nazi War Criminals—Status; Senator Austin regarding Canada-United States Relations—Trade—U.S. Tariff on Canadian Shakes and Shingles—Government Action on Submission to International Trade Commission; and Senator McElman regarding Canada-United States Free Trade Agreement—Softwood Lumber Products—Grandfathering of Memorandum of Understanding.

If honourable senators wish to have any of these answers read, I shall be happy to do so; otherwise, I ask that they be printed as part of today's proceedings.

THE ENVIRONMENT

DEADLINE FOR ELIMINATION OF LEAD IN GASOLINE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on August 16 last

by the Honourable Richard J. Stanbury, regarding the Environment—Deadline for Elimination of Lead in Gasoline.

(*The answer follows:*)

The Minister of the Environment's decision to virtually eliminate lead from gasoline by the end of 1992 was announced in the Canada Gazette on June 21, 1988.

The decision was based on:

—provision of sufficient time for 81 companies to find environmentally safe additives that may be needed to replace lead and to upgrade refineries to meet the additional demand for unleaded gasoline;

—the recognition that some equipment such as farm machinery, marine engines and commercial vehicles may require the valve lubricating properties now provided by lead and to provide time to develop alternatives to supply these properties; and

—the recognition that the quantity of lead released to the atmosphere from the combustion of gasoline is decreasing dramatically each year due to the increasing percentage sales of lead-free gasoline.

The Minister's decision was endorsed by the Royal Society of Canada Commission on Lead in the Environment with the provision that any new health data should bring about a review of this decision.

The Canadian Coalition for Lead-Free Gasoline recently provided the Minister of the Environment and the Minister of National Health and Welfare a brief which included information on a number of health studies concerning blood-lead levels in children.

The ministers responsible will be responding in the near future to the Coalition's brief and will indicate at that time if a reassessment of the date for elimination of lead from gasoline is necessary.

AGRICULTURE

DISPERSAL OF BREEDING HERDS IN DROUGHT-STRICKEN AREAS—TAX DEFERRAL ON LIVESTOCK SALES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on August 16 last by the Honourable H.A. Olson, regarding Agriculture—Dispersal of Breeding Herds in Drought-Stricken Areas—Tax Deferral on Livestock Sales.

(*The answer follows:*)

The Honourable Michael Wilson, Minister of Finance, on June 30, announced a tax deferral program for farmers who have to deplete their breeding herds of grazing livestock as a result of drought conditions.

At present, further consultations with groups directly involved are proceeding, with additional meetings planned in September.

When technical details required to implement this legislation are finally worked out, the Minister of Revenue will be in a position to introduce legislation.

JUSTICE

PROSECUTION OF NAZI WAR CRIMINALS—STATUS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on August 17 last by the Honourable Jerahmiel S. Grafstein, regarding Justice—Prosecution of Nazi War Criminals—Status.

(*The answer follows:*)

This government established the Deschênes Commission to examine the issue of the existence of war criminals in Canada. In response to the Commission's report, the Government indicated that it would put in place the necessary legislative framework to deal with war criminals in Canada. This took place within a few months after the tabling of the Deschênes report.

All files opened by the Commission and turned over to the government required further investigation and evidence gathering abroad. In following up on these files it is essential that evidence be gathered in accordance with Canadian standards of justice. This has necessitated that agreements be entered into with a number of countries.

To date, agreements with the U.S.S.R., Israel, the Netherlands, Poland, Yugoslavia, and Czechoslovakia have been concluded and copies tabled in Parliament.

In addition to the cases which are presently before the courts, investigations are underway and, as a result, it would be improper to comment further on these matters.

CANADA-UNITED STATES RELATIONS

TRADE—U.S. TARIFF ON CANADIAN SHAKES AND SHINGLES—GOVERNMENT ACTION ON SUBMISSION TO INTERNATIONAL TRADE COMMISSION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on August 17 last by the Honourable Jack Austin, regarding Canada-United States Relations—Trade—U.S. Tariff on Canadian Shakes and Shingles—Government Action on Submission to International Trade Commission.

(*The answer follows:*)

The President of the United States will decide by December 6 whether to terminate the five year program of tariffs originally imposed in June of 1986 on our exports of western red cedar shakes and shingles.

As part of the decision making process, the U.S. International Trade Commission will report on the effect a termination this December would have on the U.S. industry.

The Canadian industry is participating in the Commission's review which included a presentation at a public hearing on August 16.

The President's review of the five year program presents him with an opportunity to set things right and, of course, we will make representations to the U.S. Administration at appropriate stages in the decision making process.

CANADA-UNITED STATES FREE TRADE AGREEMENT

SOFTWOOD LUMBER PRODUCTS—GRANDFATHERING OF MEMORANDUM OF UNDERSTANDING

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on August 17 last by the Honourable Charles McElman, regarding Canada-United States Free Trade Agreement—Softwood Lumber Products—Grandfathering of Memorandum of Understanding.

(*The answer follows:*)

The softwood lumber Memorandum of Understanding signed in December 1986 resolved a bitter bilateral trade dispute and indeed resulted in the termination of a countervailing duty investigation which would have been very damaging to Canadian export interests. Its termination was not negotiable in the Free Trade Agreement (FTA). In fact, the export charge has already been eliminated for shipments of softwood lumber from B.C. and the four Atlantic provinces and significantly reduced for exports from Quebec. Over 70 per cent of softwood lumber exports to the U.S. are now exempt from the 15 per cent export charge.

The dispute settlement provisions of the FTA will provide Canada with protection against future trade remedy actions by the U.S.

TRANSPORT

PORT OF CHURCHILL, MANITOBA—MAINTENANCE AND USE OF FACILITIES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked by Senator Guay on July 13, regarding Transport—Port of Churchill, Manitoba—Maintenance and Use of Facilities.

Hon. Joseph-Philippe Guay: Honourable senators, I would appreciate it if the deputy leader would read the answer.

Senator Doody: The Minister of Transport recently informed the Manitoba Minister of Highways and Transportation that he had authorized funding for the Canada Ports Corporation for two projects at the Port of Churchill. This allocation of funds in support of the Canada-Manitoba Transportation Subsidiary Agreement on Churchill is part of the federal government's continuing contribution to the Port of Churchill. Phase I of the Dust Control Project will proceed in 1988-89 to a maximum of $750,000 and $2,544,000 in 1989-90. The Ports Corporation has also been authorized to proceed with the conversion of the heat plant at the elevator to a maximum of $567,000 in 1988-89.

Cargo diversification at the Port of Churchill is limited. Most studies indicate that potential for new traffic exists in bulk general cargo shipments, such as lumber, or bulk commodities, such as ore, rather than general break-bulk cargo and containers.

Officials of Ports Canada are discussing with Manitoba Forest Products of Le Pas (Manfor), a provincial corporation, the possibility of shipping bulk lumber through the port. Ports Canada is also actively pursuing other potential customers.

SHIPMENT OF GRAIN THROUGH PORT OF CHURCHILL, MANITOBA—REQUEST FOR ANSWER

Hon. Joseph-Philippe Guay: Yesterday I asked if the Leader of the Government would make representations to the minister responsible for the Canadian Wheat Board to ask him to cooperate in order to get some grain moving through Churchill. Will the Leader of the Government follow up on that not only on behalf of those in Churchill, Manitoba, but on behalf of western grain farmers who will also benefit?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, there is a delayed answer to a question raised by Senator Molgat, regarding Transport—Shipment of Grain Through Port of Churchill, Manitoba. Perhaps Senator Guay would have me read that also, because I think it is more in line with the question raised yesterday.

The answer is that in a year of extremely tight grain supplies the Canadian Wheat Board will make every attempt to meet the needs of their customers. Barley supplies, in particular, are tight and that commodity is primarily moved out of Churchill.

The Canadian Wheat Board will continue to monitor the crop condition. When the Wheat Board is in a position to know overall grain production, the board will discuss the requirements of its customers and at which port they would like to ship through.

In the event that crop conditions improve and should deliveries from farmers increase, all efforts will be made to increase the railcar unload targets. The federal government stays out of the day-to-day operations of the Canadian Wheat Board. The Board has the mandate to act in the best interests of the Canadian farmer.

Unloads at all ports are heavily dependent on crop conditions and farmer deliveries.

Senator Guay: Honourable senators, perhaps I could follow up on that, since Senator Molgat is not here.

The minister representing the Canadian Wheat Board has some doubts as to whether any grain will be shipped through Churchill. I believe this involves a cabinet decision; therefore, representations on our behalf by the Leader of the Government in the Senate might be of great help in convincing them

that this would really aid westerners, particularly in Manitoba and the Port of Churchill. Honourable senators, the reason I continue to ask for representations to be made to the minister is so that he will give even more consideration than he already has given to the use of the Port of Churchill.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall convey the honourable senator's representations to my colleague.

INDIAN ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Ethel Cochrane moved the second reading of Bill C-123, to amend the Indian Act (minors' funds and surviving spouse's preferential share).

She said: Honourable senators, I rise today to address Bill C-123, an act to amend the Indian Act (minors' funds and surviving spouse's preferential share).

As honourable senators are aware, the federal government has a special relationship with Canada's native peoples. This relationship and the accompanying responsibilities are defined in the Indian Act, in treaties and in policies and programs developed since the time of Confederation.

One of the government's basic responsibilities is to administer accounts for Indian minors. Bill C-123 amends section 52 of the Indian Act, which governs this relationship providing important flexibility to the minister and the bands themselves. Today the Government of Canada, through the Department of Indian Affairs and Northern Development, maintains approximately 19,000 accounts belonging to Indian minors. These accounts have a combined value of more than $145 million and are held in the Consolidated Revenue Fund.

● (1420)

Presently, moneys from individual accounts are released to a minor when he or she reaches the age of majority, which is 18. The Indian Act provides that the minister may authorize payments to minors before they reach the age of majority.

Since 1981 it has been the policy of the Department of Indian Affairs and Northern Development, upon receipt of a band council resolution requesting a per capita distribution, to pay up to $3,000 annually from a minor's distribution directly to the parents or guardians of all such minors in the band. The remainder of the money, if any, is paid into the minor's individual account maintained by the department. The Auditor General of Canada, in his 1986 report, seriously questioned the propriety of the government's policy of distributing per capita payments to minors without the adherence to standards set by provincial trust laws.

Honourable senators, Bill C-123 amends the Indian Act to provide a firm legal basis for the distribution of minors' accounts. In doing so, it also gives band councils the opportunity to be involved more directly in decisions regarding per capita distributions to minors. This is fully in keeping with the federal government's commitment to provide Indians with greater control over their lives and the lives of their children.

Specifically, Bill C-123 includes three important amendments to the sections of the Indian Act that deal with minors' accounts. First, the legislation before us today gives the Minister of Indian Affairs and Northern Development express discretionary authority to make payments from a minor's account to a parent, or a person who is responsible for the care and custody of a minor, for the maintenance, advancement or other benefit of that minor.

Second, Bill C-123 amends the Indian Act to provide band councils with the authority to direct the minister to pay all or part of per capita distributions owed to an Indian minor to a parent, or to a person responsible for the care and custody of the child, or to the band council to which the minor belongs, for the minor's maintenance, advancement or other benefit. Under this amendment, the band council assumes the responsibility for ensuring that the distributions are made properly.

Before this bill went to committee for review, honourable senators, it stipulated that these distributions, authorized by band councils on behalf of minors, could not total more than $3,000 per year, as has been the practice of the department. However, at the committee stage, representatives of affected bands presented arguments that resulted in amendments to the legislation.

Bill C-123 now provides that the minister may authorize per capita distribution payments of up to $3,000 per year, or "such other amount as may be fixed by order of the Governor in Council". This provides important flexibility regarding the amounts that can be distributed in any given year and enables band councils to request that additional moneys be paid out when the need arises.

Honourable senators, the third amendment will enable the Minister of Indian Affairs and Northern Development to pay the moneys owed to a minor, at the age of majority, in a series of payments over a period of not more than three years. A request to make payments in this way must be made in writing to the minister by a parent, or by a person responsible for the care and custody of the minor, or by the council of the band to which the minor belongs. This provision meets the concern of many Indian parents that their children, upon reaching the age of majority, do not have the expertise necessary to manage those sums of money.

Honourable senators, these amendments to the Indian Act are essential to the wellbeing of Indian minors. If the federal government's authority to make per capita distribution payments to minors is not clarified, the government may be forced to cease these payments. The standard of living for the children receiving these payments would definitely be affected.

Bill C-123 also provides for an unrelated, but significant, amendment to the Indian Act. Subsections 48(1) and 48(2) of the Indian Act will be amended to increase a surviving spouse's preferential share in the estate of an intestate. Under Bill C-123, this share will increase from $2,000 to $75,000, "or such other amount as may be fixed by order of the Governor in

Council". Again, this provides important flexibility in determining the share of an estate that will go to the surviving spouse, and it brings the Indian Act in line with the most progressive provincial legislation in this area.

Honourable senators, the amendments contained in Bill C-123 were developed following extensive consultation with the bands that will be most affected by the changes. They reflect a consensus of opinion on how to resolve the difficult issues posed by the federal government's fiduciary obligations to Indians.

Support of this legislation, honourable senators, will indeed benefit the Indian peoples.

Hon. Charlie Watt: Honourable senators, I have prepared myself to speak on Bill C-150 today, but not on Bill C-123. Therefore, I ask that the debate be adjourned in my name.

On motion of Senator Watt, debate adjourned.

INDIAN ACT

BILL TO AMEND—SECOND READING

Hon. Mira Spivak moved the second reading of Bill C-150, to amend the Indian Act (death rules).

She said: Honourable senators, the objectives of Bill C-150 are straightforward. About three years ago the government brought forward a series of important amendments to the Indian Act. Those amendments, enshrined in Bill C-31, had the effect of bringing justice to many of Canada's Indian people—particularly women—who had been denied the right of status under previous legislation.

Under previous legislation, women who married non-Indians lost their status as band members and as status Indians, whereas men, who were themselves status Indians, not only did not lose their status under the Indian Act but, in fact, conferred status on the women they married. I am sure you will agree that that was a most unfortunate situation.

Bill C-31 removed discrimination from the provisions of the Indian Act; restored status and membership rights to many; and generally increased Indians' control over their own affairs.

It was as well a balancing act—restoring the rights of women, but also giving bands the right to determine band membership codes.

The changes were aimed at bringing the provisions of the Indian Act into conformity with the Canadian Charter of Rights and Freedoms. The amendments then ensured that men and women would be treated equally and that children would be treated fairly; they also prevented anyone from gaining or losing status through marriage. These changes permitted restoration of status to those who had lost it through discrimination or enfranchisement, and they ensured that direct descendants of such persons would also have registration entitlement.

● (1430)

Bill C-31 has prompted an unexpectedly high response from native Canadians all across the country seeking reinstatement of their status. To date more than 45,000 applications have been registered and some 20,000 more are being processed. I am told that applicants are still flowing in at a substantial rate every day. Projections show that perhaps as many as 75,000 people will receive status, as a result of Bill C-31, through this act. So justice is being done to thousands. The government as well has provided, and will continue to provide, additional funding to Indian bands as a consequence of an increase in membership. That is by way of background to this bill.

Honourable senators, Bill C-150 will add further amendments to the Indian Act to correct a technical flaw in the original amendments. Bill C-150 will eliminate from the present act a number of provisions that would otherwise unfairly deprive certain persons of their entitlement to registration as Indians. Under the present provisions, certain individuals are not eligible for reinstatement simply as a result of the date of death of their parents or grandparents. This particularly affects people whose claim to status stems from the original entitlement of their grandparents and whose parents died prior to April 17, 1985, the effective date of the legislation.

Some hundreds of individuals may be adversely affected by this, and it was clearly not the intention of the government that this be so. In fact, it is estimated that between 2,000 and 4,000 individuals may be affected. The Minister of Indian Affairs and Northern Development is anxious that this matter be resolved as quickly as possible so that no individual will be denied his or her rightful status simply because of a technical error in legislative drafting, or, I should say, because of an unintended consequence as a result of that drafting.

Major native groups have been consulted on this matter and are unanimous in their support of its passage. Native groups, I might add parenthetically, have also stated that they desire to have some consultation in order to explore methods of communication for informing the Indian people about this issue—that is, the death rule amendment and its impact. I hope that will also be favourably considered by the government.

The standing committee concerned with Indian affairs has given its support to this bill, and these amendments have passed rapidly through the House of Commons with all-party support. I am sure that all senators will wish to join with me in supporting this measure, ensuring its speedy passage and ensuring that no individuals are denied justice or their rightful status.

Hon. Senators: Hear, hear!

Hon. Charlie Watt: Honourable senators, I have had only a short period of time to look into this matter, because Senator Len Marchand, who was supposed to be handling this particular file, happens to be out of the country at this time and I am speaking on his behalf.

As we are all aware, the need for this amendment to the Indian Act concerning the death rules stems from problems with earlier legislation and the need to correct discriminatory provisions in the Indian Act. This earlier legislation, commonly referred to as Bill C-31, was supposed to remove barriers

which unjustly denied people their right to status under the Indian Act and their right to band membership.

Unfortunately, certain legal interpretations of the deeming provisions of Bill C-31 caused the legislation to have the opposite effect in some cases; thus there is the need for a further amendment to the Indian Act.

I should also point out that the three major aboriginal groups affected by this problem have been consulted and are satisfied with the wording of this amendment. Therefore, we are in agreement with the bill and believe it should be adopted without further delay.

Hon. Senators: Hear, hear!

Motion agreed to and bill read second time.

Hon. Royce Frith (Deputy Leader of the Opposition): How's that for dilly-dallying, Senator Kelly? Five minutes for second reading! We will be watching for your reference to that tomorrow in your speech.

REFERRED TO COMMITTEE

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

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

Hon. Senator Cottreau, Acting Speaker, in the Chair.

[*Translation*]

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT BILL

SECOND READING—DEBATE ADJOURNED

Hon. Gerald Ottenheimer moved the second reading of Bill C-148, to establish the Canadian Centre for Management Development and to amend certains Acts in consequence thereof.

He said: Honourable senators, I have the pleasure of presenting a bill to establish the Canadian Centre for Management Development.

This bill embodies the principles first set out by the Prime Minister and reinforced by the Deputy Prime Minister when he announced the establishment of the centre in a speech to the Public Policy Forum on April 14 in Toronto. Its purpose is to enhance the management capabilities of the public sector.

The six objectives of the centre, as described in the bill, address the need for our senior managers to equip themselves with new knowledge, skills and managerial techniques consistent with the requirements of a rapidly changing government environment.

We want our public service managers to give us the best programs and services in the world, and at the same time introduce employee cutbacks. That is one of the difficult challenges they face. The government is aware of this and has adopted a set of new measures to help them. In our 1986 Budget, we officially made a commitment, through the Treasury Board program *Increased Authority and Accountability for Ministers and Departments*, to give ministers and departmental managers greater flexibility and more direct responsibility for managing the resources at their disposal.

[*English*]

We realize, however, that delegation and deregulation within governments are not enough. If the government is to delegate more responsibility and authority to managers, it must also ensure that they have the knowledge, skills and experience to use the authority to their best advantage. This requires a long-term commitment and investment in the training of our senior public servants and those with the potential to so become.

As Canadians, we are proud of the quality and traditions of our public service. I believe that in establishing this centre we are building on existing strengths and ensuring that the service will continue to function and prosper in a professional and appropriate way in the future. As I am sure honourable senators will agree, all governments and the Canadian public will be better served by a public service whose dedication, sensitivity and professional competence are deemed to be second to none.

● (1440)

The objectives of the centre will be accomplished through offering to senior managers in the public service management training programs, courses and seminars. It is supposed to be an arm's length institution. The principal will be responsible for managing the centre and its course design and curriculum, conducting research into management issues, and publishing reports and studies pertinent to management in the public sector.

This bill is designed to ensure that the Canadian Centre for Management Development will have substantial independence in managing its academic affairs, and will consult widely with a broad range of groups, in addition to receiving guidance from its advisory council. The advisory council itself will be made up of outstanding Canadians from the public service, the private sector and the academic community.

The Canadian Centre for Management Development will be a truly national centre, with participants from across Canada. The centre will be located in the historic LaSalle Academy on Sussex Drive in the national capital region. In addition, the centre will continue to offer courses in Touraine, Quebec, and will offer programs and courses through existing federal facilities in western and Atlantic Canada.

Some of the most important goals of the centre are set out in this bill and can be summarized as follows: To encourage pride and excellence in the management of the public service; to foster a sense of the purposes, values and traditions of the public service; to provide the hard skills and knowledge to respond to change and manage government programs and services efficiently and effectively; to encourage the attraction of persons of high caliber to the public service, and to support their growth and development; and to encourage a greater awareness in Canada of issues related to public sector management and the process of governance, and to involve a broad

range of individuals and institutions in the centre's pursuit of excellence in public administration.

[*Translation*]

I am confident that this bill addresses the need for changes in the way our senior public servants are prepared for management roles. I am also confident that all senators can support this bill which reflects a major commitment to continuing a tradition of highly qualified professionalism in the public service.

This piece of legislation marks a turning point in the history of the Public Service of Canada and is an expression of a commitment to the excellence of the continuing contribution of the Public Service to good government in this country.

[*English*]

I should like to add a personal reminiscence. I believe we are all aware that public servants—whether federal orders of government or provincial orders of government—are frequently the object of a kind of humour that is not always flattering toward them. Many people seem to have the impression that some positions in the public service are absolute sinecures, and that all one has to do is provide the minimum of service and then tenure is assured and everything else is protected.

My personal experience has been quite limited with the federal public service. However, during the past number of months that I have been here I have found a very high quality of interest and dedication in the contacts I have personally had with public servants. I am sure others, whether in federal or provincial elected office, would come to the same conclusion. It is an all-Canadian service, or a series of Canadian services, and I am inclined to think that the cadre of public servants in the various provinces—and I can speak for only one directly, although I have had contact with those in other provinces as well—also serve well, and capably, professionally, and impartially, their political masters and the citizenry in what are sometimes, I am sure, very difficult circumstances.

I am pleased to move second reading of this bill.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I should like to congratulate Senator Ottenheimer particularly for tugging at our heartstrings, as he did when he described civil servants as the butts of cruel, unkind jokes. He did tug at our heartstrings, because, as he probably knows, certain equally callous persons have been known to make the same allegations about senators.

With that congratulation, I move the adjournment of the debate in the name of Senator Bosa.

On motion of Senator Frith, for Senator Bosa, debate adjourned.

Hon. Senator Ottenheimer, Acting Speaker, in the Chair.

NATIONAL CAPITAL ACT

BILL TO AMEND—SECOND READING

Hon. Finlay MacDonald moved the second reading of Bill C-153, to amend the National Capital Act.

[Senator Ottenheimer]

He said: Honourable senators, when this bill was being explained to me by officials of the National Capital Commission, it struck me with some force just how little I knew not only of Ottawa but of the area we call the national capital region. In my case my excuse is probably less than others because I live in Ottawa most of the time, whereas many other honourable senators have to spend weekends in their cities, and possibly do not have an opportunity to get to know Ottawa and its environs.

Under these circumstances, if you have no association with a city or its commerce or its universities—and I do not think too many members of this chamber are interested in home and school associations—there is a tendency to take it for granted as a place where you work and then get away from as quickly as possible.

I found that the background of the National Capital Commission was quite fascinating. In speaking to Bill C-153, I should like to share this background with you. Since the end of the 19th century those responsible for the development of the Canadian capital have responded to the challenge of creating a capital that not only reflects a national purpose but also portrays the values and aspirations that Canadians are supposed to hold in common. Familiar names abound when we think of the chairmen of the National Capital Commission over the years: Friends like Gallant, Drury, Juneau, Fullerton, who gave us the longest skating rink, and, of course, the irrepressible Jean Pigott, present chairman, whom we all know.

An Hon. Senator: And love.

Senator MacDonald: In 1867 Ottawa was a prosperous, but very unattractive, lumber town.

Senator Frith: What was that date again?

Senator MacDonald: It was 1867.

Senator Doody: Shortly after you were appointed!

Senator MacDonald: Although it had sprung up with no thought to its planning or design, to the surprise of many it became the capital of the new Canadian Confederation. However, it was not until 1899 that the federal government created the Ottawa Improvement Commission to help build and enhance a capital worthy of the Canadian people.

Many changes have occurred since that time. The old OIC—that is to say, the Ottawa Improvement Commission—grew to be the Federal District Commission, responsible not only for planning and development but also for the landscaping and maintenance of most federal grounds in the capital area.

The face of the capital has changed dramatically over the years. The changes really began in 1949, when a master plan for the capital, commonly referred to as the Gréber Plan, was completed. By 1951 the plan had been tabled in the House of Commons and the Canadian government was able to initiate many of the large-scale works recommended by the plan. Some of these works we will all remember: the relocation of the railway lines from the city core; office decentralization—and I am referring to places such as Tunney's Pasture, the

creation of a greenbelt, and the upkeep of existing parks, along with the acquisition of new ones.

• (1450)

In 1956 a joint parliamentary committee endorsed continuing implementation of the Gréber Plan, thus resulting in the adoption of the National Capital Act in 1958. The Federal District Commission was renamed the National Capital Commission and was granted increased powers to carry out the remainder of the major Gréber Plan proposals.

The National Capital Act empowered the NCC to acquire and improve property owned by the federal government and to carry out the planning of the national capital region. The NCC was made responsible for coordinating the development of buildings on all federal lands in the region.

The 1969 Constitutional Conference of First Ministers endorsed Gréber's vision of a unified capital extending across the Ottawa River. Since that time a federal administrative core in Hull, a new home for the National Gallery and the Canadian Museum of Civilization have been realized. Soon Confederation Boulevard, a name unknown to me until yesterday—I had heard the name, but did not know what it meant—will encircle the capital as the symbolic heart of Canada.

During the last ten years the NCC has responded to the need and desire of Canadians for strong nation-building symbols. It has, in part, accomplished this through the presentation of various public activities and events of national interest in the capital.

The NCC has had to de-emphasize its involvement in projects of a local urban nature, which has caused some controversy, and re-examine its mandate and structure. It has developed a new and comprehensive two-part plan for Canada's capital, including a federal land-use plan for the continued enhancement and evolution of the capital's physical features. More importantly, it includes a new vision for the capital, emphasizing its symbolic significance.

Fifteen federal departments and agencies were consulted on these proposed revisions to the NCC's mandate. It is amazing how many departments, agencies of government and crown corporations have had their hands in the development of the capital. Coordination was required to bring all this together so that there would be no overlapping or unnecessary expense. The departments and organizations so consulted gave unequivocal support to this whole new concept of the vision of the NCC's need to assume a strong leadership role, particularly in coordination.

In 1986 the federal government announced that it had agreed to a revitalized role for the NCC. This is the raison d'être of these amendments. It meant a shift in emphasis from "building" the capital to "programming" the capital. The NCC would now look towards making the nation's capital a meeting place; communicating the capital to Canadians; and safeguarding and preserving the capital for future generations.

The Speech from the Throne opening the Second Session of the Thirty-Third Parliament, which was in September of 1986, proposed legislation to amend the National Capital Act in accordance with the enhanced mandate of the NCC. These are the amendments that are before us today.

Federal departments and agencies have a material impact on the capital. All federal entities should be part of the coordinated effort required to achieve this vision. Therefore, clause 1 of the bill clarifies the definition of "department" to include crown corporations and all other entities.

Someone suggested that if the Chateau Laurier were still owned by the CNR, a crown corporation, the manager or the directors of the CNR could paint it black or put polka dots on it without any reference at all to the NCC and regardless of the effect it might have on the new vision. They cannot do that now, Senator Sinclair, because it is no longer in the hands of the CNR.

The National Capital Act presently requires that the head office of the NCC be located in the city of Ottawa. This is significant.

Senator Frith: Why were the polka dots possible for the CNR, but not for anyone else?

Senator Sinclair: The Canadian cities are full of rip-offs!

Senator Frith: I am receiving answers from all over the place!

Senator MacDonald: Yes, and I suppose—

Senator Doody: There are no two alike!

Senator Frith: There are a lot of polka dot experts here!

Senator MacDonald: I suppose the CPR probably would have better taste than to paint it with polka dots, stripes, or whatever.

Senator Frith: Does this act eliminate polka dot painting?

Senator MacDonald: Yes. It eliminates the possibility of the Chateau being painted with polka dots.

Senator Frith: No matter who owns it?

Senator MacDonald: Yes; or if it had been under previous ownership.

Let me remind you that the present act requires that the head office be in Ottawa. Further, it requires that three of the commission's meetings be held in Ottawa on an annual basis.

It is interesting at this point to pause in the process—

Senator Frith: What is the difference between "annually" and "on an annual basis"?

Senator MacDonald: There is no difference.

Senator Frith: Good.

Senator MacDonald: These requirements are inconsistent with the remainder of the act, which describes the NCC's powers and responsibilities, and the sphere of activities applicable to the national capital region. This requirement is also inconsistent with the majority of federal legislation, which normally refers to the national capital region.

Thus, under clause 2 of the bill to amend, it is recommended that the words "City of Ottawa" be replaced with "National Capital Region".

When we talk about this on this side we are talking about Ottawa, Nepean and Gloucester, and on the other side, Hull, Gatineau, Aylmer and 21 other municipalities.

In light of the NCC's enhanced mandate, the third clause of the amendment expands the objectives and purposes of the commission's own involvement in public activities and events. It outlines the NCC's role as coordinator of other federal departments and public activities in the national capital region.

You may have noticed that a number of these things have actually been going on. These amendments are intended to make them legitimate.

This amendment will eliminate the duplication of spending and manpower while increasing the efficiency of programming of public events, creating a more positive image to visiting Canadians.

The fourth clause strengthens the NCC's role in safeguarding and preserving the capital for future generations. It closes loopholes in the area of the NCC's traditional role as planner of the capital by requiring that land-use changes, demolitions and land sales in the capital region be reviewed and approved by the NCC before such activities take place. However, the Governor in Council retains a veto.

The two final clauses update administration practices, increasing the NCC's efficiency in operations. They are housekeeping amendments.

Clause 5 of the bill provides the NCC with authority for the granting of easements of up to 49 years without Governor in Council approval.

Apparently at the present time, under the old act, it takes months to make simple easements of hydro lines, and so on. From time to time, local government agencies seek permission to enter NCC property for the purpose of installing overhead utilities and community infrastructure. Provision for rapid response to these requests will greatly improve relations with other levels of government.

Finally, clause 6 of the bill proposes the removal of the legislative application of government contract regulations to the NCC. It would make it possible for the commission to operate more efficiently in markets, if it were no longer regulated by government contract regulations.

Senator Frith: What does that mean?

● (1500)

Senator MacDonald: At the present time the commission is subject to a section of the Financial Administration Act which it considers unnecessarily burdensome and from which it is asking relief.

Senator Frith: But you do not know how?

Senator MacDonald: No, I do not know.

Senator Frith: We can get that information in committee.

Senator MacDonald: Relieving the commission from subsection 34(1) of the Financial Administration Act would be consistent with the contracting and tendering framework applicable to other crown corporations.

[Senator MacDonald.]

Senator Frith: By tender then.

Senator MacDonald: The dimensions of the expanded NCC mandate require modification to its legislative authority, especially the commission's involvement in public activities and its role as a coordinator. We think that Bill C-153 is a positive and desirable move on the part of the government, and I am pleased to recommend its passage by this house.

Hon. Joseph-Philippe Guay: Would the honourable senator allow a question?

Senator MacDonald: Yes.

Senator Guay: The honourable senator is to be congratulated on his study, particularly the historical background he has presented with regard to the National Capital Commission. Having listened to his remarks, I have no doubt that he is quite an authority. Does the honourable senator know whether the National Capital Commission has authority pertaining to the grounds surrounding the Senate and the House of Commons? I think the honourable senator is the person to answer my question, in view of the study he has made. If so, why does it have the authority over the grounds surrounding our buildings?

Senator MacDonald: The honourable senator will note that my authority and knowledge are only 24 hours old. However, I remember, as perhaps do other senators, listening to a presentation by the chairman of the NCC, Mrs. Pigott, at a committee hearing. The same subject was raised at that time. As I recall, some senators at that time wanted to employ the services of a specialist or a planner to determine exactly how the NCC's authority would impinge upon operations affecting the grounds surrounding Parliament, and particularly the Senate.

Senator Guay: I gather that a determination has not been made on that as yet. Is that so?

Senator MacDonald: That is my understanding.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, we support the principle of this bill. I agree with Senator MacDonald that the changes that have been made in Ottawa and in the national capital region have been quite dramatic. It has taken some time to effect these changes, because the job of the NCC is a difficult one. As Senator MacDonald pointed out, it has to deal with the natural demographic tensions that arise between municipalities, of which there are many, and the NCC. That is a problem that will never be solved. In fact, it defines the problem the NCC has in reconciling the competing claims of these many municipalities with its objective to establish an attractive and efficient national capital region.

Senator Guay: Until they are amalgamated!

Senator Frith: Amalgamation does not remove tensions completely either, as we have found in Toronto and in other

big cities. So, as I say, the reconciliation of local and larger regional issues is the job of the National Capital Commission.

I first began coming to Ottawa many years ago in my teens. I came from Toronto and Montreal to visit relatives. Both my mother and father were born in Ottawa. My mother was raised partly here and partly in Perth. I can remember that in those days Ottawa as a city did not compare very favourably to Toronto as a city, and Toronto was not any great shakes in those days either.

Senator Doody: It still isn't!

Senator Frith: The improvements the National Capital Commission has made to Ottawa, to the national capital region, and to life in Ottawa are certainly to be encouraged. If the commission is coming to the legislators and asking for help to solve some of the problems it faces and will have to solve in the future, I think we should generally support it and help where possible.

It has been about two years since this bill first came on the order paper. We congratulate the government for bringing it forward.

I should also like to join Senator MacDonald in congratulating the creativity of the many distinguished chairmen of this commission. Creativity has been the mark of every one of the chairmanships and administrations. Of course, creativity is not enough; the commission must have significant administrative abilities, and it has distinguished itself in that area as well.

Some questions came to mind as I listened to Senator MacDonald. I think that, while we should approve the bill in principle, we should take a careful look at the powers the commission is asking for, and we can do that successfully in committee. I would like to be sure that any departures from, or additions to, the commission's present powers are not so radical as, perhaps, to vest it with more authority than it ought to have and put it in a position of holding arbitrary authority, which, I am sure, would be undesirable and would be opposed by the other municipalities and councils that have their responsibilities in this area as well.

Honourable senators, we support the principle of the bill. Unless someone else wishes to adjourn the debate, I suggest that it receive second reading immediately and that it be referred to committee. It is difficult to know which committee we should send the bill to, but, since it involves financing, perhaps we can resort to that subsection of the rules dealing with committee mandates that says that if we cannot figure out where any bill or other matter should go we can pick whichever committee we think is appropriate. I think the National Finance Committee is as appropriate, or perhaps as inappropriate, as any other committee.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Macdonald, bill referred to the Standing Senate Committee on National Finance.

[*Translation*]

INCOME TAX ACT AND RELATED ACTS

BILL TO AMEND—SECOND READING

Hon. Jean Bazin moved the second reading of Bill C-139, to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts.

He said: Honourable senators, I am pleased to support Bill C-139, which completes the process required to reform the individual and corporate income tax system.

• (1510)

[*English*]

Work on tax reform began in earnest about two years ago. A major step was the release of the white paper on tax reform in June of 1987. The review of the white paper and the Senate report of last fall were a further major step in the process. These consultations resulted in some important improvements and refinements to the original measures which were subsequently announced last December. Further refinements were incorporated in the bill now under review.

[*Translation*]

Tax reform is the result of an interactive process during which the Minister of Finance and his officials consulted Canadian taxpayers at length. Parliamentary committees were very closely involved in this crucial stage.

The fundamental objectives of tax reform were set forth in the white paper. These objectives have always been in view as the various provisions were developed and improved.

Let me restate these objectives.

The tax system must be made fairer; it must encourage competitiveness, growth and job creation; it must be internally consistent and compatible with other federal programs; it must be a more reliable and balanced source of revenue for the funding of essential public services.

These objectives have been achieved by broadening the tax base for individuals and corporations, by lowering the rates and by converting personal exemptions and some deductions into tax credits.

[*English*]

The results of tax reform illustrate how the objectives have been achieved. By shifting more of the tax burden from individuals to corporations and by lowering rates and removing preferences, the reforms make the personal income tax system fair and more progressive.

Net personal income tax revenues to the federal government will be reduced by about $12 billion over the next five years. Income taxes will be reduced from 9.7 million households—over 85 per cent of all households—by an average of $490. Approximately 850,000 lower income Canadians will have their income tax reduced to zero or receive refundable credits

in 1988. Income taxes will be cut for about 1.3 million of the 1.4 million households with at least one person aged 65 and over. About 250,000 elderly Canadians will have their income tax reduced to zero.

Taxes paid by persons with similar incomes and in similar circumstances will vary less after tax reform with the elimination or reduction of tax preferences, such as MURBs, film incentives and the lifetime capital gains exemption.

Most taxpayers whose income consists primarily of salary or wages, family allowance or standard pension and retirement revenue will enjoy tax reductions.

Because of the base broadening measures through the removal of tax preferences and the conversion of exemptions and deductions to credits, the progressivity of the system is increased.

While taxpayers with incomes less than $15,000 represent 46.7 per cent of total taxpayers, their share of federal tax payable will be lowered from 1.6 per cent to 1.1 per cent. On the other hand, federal tax payable by taxpayers with incomes greater than $50,000, who represent only 6.3 per cent of total taxpayers, will increase from 34.9 per cent to 36.4 per cent.

Taxpayers experiencing tax increases will include those claiming large special tax preferences or credits and those with substantial investment income or self-employment earnings subject to the new, fairer expense-deduction rules.

This summarizes the situation on the personal side.

On the corporate side, corporations will pay more tax. The broadening of the corporate tax base will more than offset the lowering of tax rates. Corporate taxes will increase by 10 per cent, or about $5.5 billion, over the next five years.

Many more large profitable corporations will pay tax. With the reduction in tax preferences, the number of profitable corporations not paying tax will be reduced by more than 50 per cent.

Variations in tax paid by different sectors will be reduced. Prior to tax reform average corporate tax rates across industrial sectors ranged from 14.5 per cent to 24.5 per cent of income on financial statements. Reform has cut this to a range of 15.5 per cent to 22.6 per cent.

Tax reform will reduce the rate of tax on the return from new investment, strengthening the incentive for firms to invest in profitable ventures. The tax system will be less intrusive. Business decisions will be governed more by market forces than by tax considerations.

The financial sector will be called upon to pay significantly more in taxes after reform.

The average tax burden for small firms is unchanged by tax reform while that for large corporations will rise. After tax reform the average tax rate for small businesses will be 13.5 per cent, a full 7.6 per cent advantage over large firms, which will have an average tax rate of 21.1 per cent. A major part of this relates to the small business deduction which has been maintained and gives a statutory tax for small firms that is less than half of that for large firms.

[Senator Bazin.]

Incentives to the mining industry, such as flow-through shares and the ability to write off all investment against the income of a new mine, will be retained. The average tax rate of the mining sector will remain one of the lowest of all sectors. The lower tax rate will more than offset the slightly broader tax base for the oil and gas industry.

Firms engaged in research and development in Canada will continue to benefit from one of the most favourable tax regimes for R&D in the industrialized world. Moreover, Revenue Canada's recent streamlining of the administration of the fully refundable R & D tax credit for small firms is a further useful step forward.

A new general anti-avoidance rule will help prevent abuse of tax avoidance arrangements, and new information requirements for investment income and tax shelters will help identify avoidance and evasion.

[*Translation*]

Honourable senators, tax reform can be controversial. Solomon himself would have been unable to design a system that would please everyone, especially with a system that provides many benefits to specific groups of taxpayers. Although the reform reflects the concerns of a large number of intervenors, taxpayers who will see their benefits restricted or eliminated altogether would have preferred this exercise to take a different route.

When all is said and done, we must admit that the bill provides for a fair system, based on the objectives mentioned earlier.

In concluding, I would like to point out that in addition to the tax reform, Bill C-139 also brings forward the income tax changes announced in the budget of February 10, 1988. The most significant are the increases in the child care expense deduction and the increase of the refundable child tax credit to implement the taxation aspect of the national strategy on child care. I should also mention the amendments to tighten up the rules used to determine whether corporations are associated with one another for the purposes of the Income Tax Act.

Bill C-139 also changes certain rules for the taxation of trusts and their beneficiaries, as announced on October 1, 1987. The bill contains measures to prevent tax avoidance through the abuse of the rules relating to capital dividend and dividend refunds, as announced on September 25, 1987, and contains consequential amendments to the Canada Pension Plan and the Unemployment Insurance Act, 1971.

Honourable senators, this bill is the result of demands for a fairer and more effective tax system. Private initiative, competition, economic growth and job creation, all of these will be promoted and strengthened by this bill. By lowering tax rates and broadening the tax base, the new tax system provides for sustained economic development.

• (1520)

[*English*]

Hon. Ian Sinclair: Honourable senators, I am sure that all of us listened raptly to the presentation made by the honourable senator, particularly where he dealt with statistical anal-

ysis. I am sure that all honourable senators will remember that when tax reform was introduced it involved matters other than those mentioned by the honourable senator.

One of the primary reasons we were given for the need for tax reform was to bring about greater simplicity in the tax system. Honourable senators, I am afraid they have failed abysmally. I only need to lift the book to show you how badly they have failed. I just happened to turn up one clause, which I will read to you to show how simple it really is. I will be reading from page 99 of Bill C-139. This deals with a provision under clause 36 of the amended act and refers to section 59 of the basic statute. Let me read to you what subclause 36(3) says about paragraph 59(3.3)(*b*) of the original act:

> (3) All that portion of paragraph 59(3.3)(*b*) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:
>
> "(*b*) 33 1/3% of the aggregate of all amounts, each of which is the stated percentage of an amount in respect of a disposition of depreciable property of a prescribed class (other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length) of the taxpayer after December 11, 1979 and in the year, the capital cost of which was added in computing the earned depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the earned depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor, that is equal to the lesser of"

Senator Doody: Sounds simple enough to me!

Senator Frith: Perhaps you should read the part it replaced. It might have been even worse.

Senator Sinclair: No. The part that it replaced was only two lines.

Senator Frith: Really? I am glad I asked. He did not put me up to that.

Senator Doody: Obviously rehearsed!

Senator Sinclair: Honourable senators, it is going to be very difficult to accept in principle that this bill accomplishes simplicity. However, does it also accomplish fairness? The honourable senator says it does; but before I go on to fairness I should make a comment on simplicity. He referred to the report made last December by our committee. That was a unanimous report by the Standing Senate Committee on Banking, Trade and Commerce which was made after considerable work One of its recommendations on simplicity was as follows:

> We recommend that the Department of Finance begin consultations with interested groups to determine which parts of the Income Tax Act would lend themselves to structural simplification and to proceed with dispatch to amend the Act using the same guidelines as were used in simplifying the small business rules.

As far as I know, nothing was done on that.

Turning now to the question of fairness, there certainly have been some people who, as a result of the changes, were dropped from the tax roll. It is certain that some people will pay lower taxes. However, the great body of middle class people do not come within those wonderful areas. The great body of middle class people are going to find that their taxes are higher. Is that fair? According to the honourable senator, it was to improve and to implement fairness. It certainly seems to me that, in dealing with the issue of fairness, one has to look at those who comprise the large body of taxpayers. That is the middle class.

It is very easy to run off some at the bottom end, who pay very little taxes, or to say, "I have hit the top end and increased their taxes", because, in total, they pay very little taxes. It is that broad middle class that pays taxes, and this bill, honourable senators, does not treat them fairly. The reason, we are told, is that we are looking forward to dealing with the problem in the future.

Where does the lack of fairness arise? It arises from the progressivity provided by this statute. That is where the difficulty arises. When is that going to be addressed? As I recollect, the suggestion was that it would be addressed when we got to a universal sales tax situation. How close we are to that, I do not know. I wonder if the honourable senator can tell us when we may expect that? May we expect that this year? When should we expect it?

I should like to address one other issue. In light of the underground economy and the growth of that cancer, particularly in certain areas of the country, one would have thought that that would be addressed, because those who operate in the underground economy are taking advantage of all others who deal with the tax man on the honour system, which is the basis of our return.

● (1530)

Honourable senators, what do you do when you are met with a bill as complicated as this, when you have spent a significant amount of time dealing with the white paper, and when technical matters really do not lend themselves to resolution by committee? Technical drafting matters in complicated statutes such as this do not lend themselves to evidentiary situations; they lend themselves to face-to-face dealings between professionals and bureaucrats. It is for this reason that I have always felt that technical drafting changes should not be dealt with by committee, but should be dealt with by officials from the departments.

Whether all of the technical difficulties that were in the original provisions as set out in Bill C-139 have been met, I do not know. Perhaps the honourable senator can inform us whether they have.

Honourable senators, I do not think there is much use in looking again at such problems as are involved in changes from allowances to credits. We did look at that. I do not think we need to do that again, but I do think there are a number of provisions in the bill that we should look at in the light of the

report of the committee which was made to the Senate December last.

The Hon. the Acting Speaker: Honourable senators, it is moved by the Honourable Senator Bazin, seconded by the Honourable Senator Roblin, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Sinclair: Honourable senators, does that motion mean that Senator Bazin is moving that this bill be accepted in principle by the Senate?

Senator Roblin: Yes.

Senator Sinclair: Then, on division.

Motion agreed to and bill read second time, on division.

[*Translation*]

REFERRED TO COMMITTEE

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

On motion of Senator Bazin, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[*English*]

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that all remaining orders stand, on the understanding that any senator who wishes to speak on any order is perfectly entitled to do so.

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, September 1, 1988

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

Prayers.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-130, to implement the Free Trade Agreement between Canada and the United States of America.

Bill read first time.

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

On motion of Senator Murray, bill placed on the Orders of the Day for second reading on Wednesday next, September 7, 1988.

CANADIAN CENTRE ON SUBSTANCE ABUSE BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-143, to establish the Canadian Centre on Substance Abuse.

Bill read first time.

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

On motion of Senator Doody, bill placed on the Orders of the Day for second reading on Wednesday next, September 7, 1988.

CONSTITUTION ACT, 1867

BILL TO AMEND—FIRST READING

Hon. H.A. Olson, for Hon. Gildas L. Molgat, presented Bill S-20, to amend the Constitution Act, 1867 (Speaker of the Senate).

Bill read first time.

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

On motion of Senator Olson, bill placed on the Orders of the Day for second reading on Wednesday next, September 7, 1988.

BLUE WATER BRIDGE AUTHORITY ACT

REPORT OF COMMITEE ON SUBJECT MATTER OF BILL TO AMEND (BILL C-210) PRESENTED AND ADOPTED

Hon. Joan Neiman, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, September 1st, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTIETH REPORT

Your Committee, to which was referred the subject-matter of the Bill C-210, An Act to amend the Blue Water Bridge Authority Act, has, in obedience to the Order of Reference of Thursday, August 18, 1988, examined the said subject-matter and recommends that the Bill be reinstated on the Orders of the Day for a second reading later this day and that the Order do stand in the name of the Honourable Senator Kelly.

We are satisfied that this Bill will clarify the exemption from *personal* liability of the unpaid directors of the Bridge Authority. From testimony received, it appears that the members of the Authority *may* already be adequately protected by section 20 of the *Interpretation Act* but the passage of Bill C-210 would provide an explicit and direct release from personal liability for them in the event of an act of terrorism or a major disaster beyond their control.

The Committee notes the broader implications of this measure. Bill C-210 is a Private Member's Bill relating only to the Blue Water Bridge Authority.

The Committee is aware of at least one other international bridge authority constituted by federal statute. With the passage of the Bill, the liability of the directors of the two authorities may be different. However, officials of both the Transport and Justice Departments are aware of the possibility of an anomaly being created and further action on this matter would be a government policy decision.

Respectfully submitted,

JOAN B. NEIMAN
Chairman.

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

Senator Neiman: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move the adoption of this report now.

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

Hon. Senators: Agreed.

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

Senator Neiman: Honourable senators, before its adoption I should like to make a few remarks on this bill because it is rather unique. The Blue Water Bridge Authority is a rather strange hybrid. It was created by a federal statute 50 years ago, and it provides for four members to be appointed by Order in Council on our side and four members to be appointed or selected on the American side. During the past 50 years we have appointed four members and charged them with the responsibility for the Canadian operation, whereas their counterparts on the other side have been bureaucrats of the State of Michigan. So we have this odd combination of authority.

The bridge is self-funding. In fact, the statute that created the authority specifically states:

> The Bridge Authority is not an agent of Her Majesty and no member, officer or employee of the Bridge Authority shall be deemed, as such, to be an officer, agent or employee of Her Majesty.

In other words, in a sense the act absolves the federal government of all responsibility for the actions and possible liabilities of the bridge authority members. It is for this reason that the Canadian members felt that they required more protection. They can obtain insurance, but they cannot obtain sufficient coverage in the event of a possible accident. The bridge is the most frequently travelled of our international bridges and carries the most dangerous goods between our two countries.

The committee learned that there is one other international bridge authority constituted in precisely the same manner. It is called the Fort-Falls Bridge Authority and is located at Fort Frances. Given the existence of this other bridge, the committee members felt that we were creating an odd situation with the passage of this bill, because it would grant more protection to Canadian members of the Blue Water Bridge Authority than is afforded to the members of the Fort-Falls Bridge Authority. This anomaly was brought to the attention of the members of the other place, and it was felt that the proper way to clarify liability would be either to change the Interpretation Act or to change the two acts themselves. However, that has not been done.

● (1410)

The other aspect of the bill that I think deserves a little attention is the fact that, because it is a private member's bill, neither the Department of Transport nor the Department of Justice will comment officially on the contents of the bill or the bill's legality, although they did tell us informally that they had no objection to it. Because of the rather strange factors involved here, we felt that the government, at a future time, might wish to revisit this subject with a view to changing the policy to conform in respect of all similar bodies.

[The Hon. the Speaker.]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I moved the motion referring this bill to the Standing Senate Committee on Legal and Constitutional Affairs before the question was put for second reading adoption.

I believe the committee has solved the two problems I had. The first one was whether the bill went too far in that it was providing protection beyond that necessary to deal with the matter of terrorism. The committee's report satisfies me that it does not.

The other question was, if we were providing this protection for the members of the board of the Blue Water Bridge Authority, why were we not providing it for others? If it was good for them, why was it not good for others? The committee has also dealt with that problem.

I did not think of the International Bridge at Fort Frances when I raised the question, but I later realized that, having represented the Town of Fort Frances on one occasion at a trial, it probably was a good example.

The only additional comment I make is to ask the Leader of the Government in the Senate to note particularly the last paragraph of the report and bring to the attention of the Minister of Justice or the Minister of Transport the fact that we are, in this case, solving a problem that should be solved by a law of general application, if the reason for dealing with the particular case has the merit it apparently has.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall bring the honourable senator's views on this matter to the attention of colleagues.

Motion agreed to and report adopted.

BILL TO AMEND (BILL C-210) REINSTATED ON ORDER PAPER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, that being the case, I think this matter should be restored to the Orders of the Day. I see no reason for our referring this matter to committee again, after second reading. In fact, we would have no objection to the bill's receiving second and third reading today.

Hon. C. William Doody (Deputy Leader of the Government): I thank honourable senators for their cooperation. I ask that the bill be reinstated on the Orders of the Day for second reading now.

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

Hon. Senators: Agreed.

Bill to Amend (Bill C-210) reinstated on the Orders of the Day.

SECOND READING

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

Hon. William M. Kelly: Honourable senators, with leave, I move second reading now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

THIRD READING

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

Hon. William M. Kelly: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*b*), I move third reading now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

CRIMINAL CODE
FOOD AND DRUGS ACT
NARCOTIC CONTROL ACT

BILL TO AMEND—REPORT OF COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Hon. Joan Neiman: Honourable senators, I have the honour to present the thirty-first report of the Standing Senate Committee on Legal and Constitutional Affairs, respecting Bill C-61, to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act. I 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 that it form part of the permanent records of this house.

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

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 4253.*)

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

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

Hon. Senators: Agreed.

Senator Neiman: Honourable senators, I have only a few words to say with respect to Bill C-61. I think I am speaking for members of the committee when I say that we strongly support the goals of this bill. It has been a serious anomaly of our law that criminals could be allowed to keep and even grow wealthy on their ill-gotten gains. Possession of the proceeds of crime has long been an offence under the Criminal Code, but, until this bill, there were no means by which a court could order the property forfeit.

Despite our general support, there are some matters that concern us. These arose in the course of studying the bill. The first is the somewhat complex issue of dual criminality. Some honourable senators will be familiar with extradition law, where that principle is well established. Our extradition treaties always provide that Canada will not turn a person over to a foreign government unless the act which the person has committed, or is alleged to have committed, is a crime in both Canada and that foreign state. That requirement is missing from this bill. In fact, it permits forfeiture of a person's property for certain named offences, which, if the activity had taken place outside Canada, would have been legal, but which would have consitituted an offence if it had occurred in Canada. In theory, therefore, the activity could have been legal in the jurisdiction where it took place. We have the examples of legal gambling in the State of Nevada and legal prostitution in parts of the Netherlands.

The same approach with respect to allowing this type of forfeiture has been used with the newly created offence of laundering the proceeds of crime. We seriously question whether these provisions will comply with the Canadian Charter of Rights and Freedoms. Do they not conflict with the principles of fundamental justice by providing for the possibility of condemning a person for conduct that is legal in the place in which it occurred? We were advised by the minister and his officials that a provision has existed in the Code for many years that also lacks this dual criminality requirement, but it has never been used in a case where the underlying activity has actually been legal.

Nevertheless, the committee does not believe that this provision will be acceptable under the Charter. Should it ever be used in this particular way, it seems certain that it will be constitutionally challenged. However, we are reasonably confident that the acts committed by the people targeted by the forfeiture provisions in this bill will, in virtually all cases, also be illegal in the foreign jurisdictions in which they take place. For this reason we did not feel that we should retard the passage of the bill by insisting on appropriate amendments.

● (1420)

Another provision of the bill raises concerns because of its vagueness. It is the one that permits forfeiture of proceeds for offences other than the one of which the person has been convicted. If the court is not satisfied that the property in question relates to the offence for which the person is convicted, it can nevertheless order the property be forfeit, if it is satisfied beyond a reasonable doubt that the property is part of the proceeds of crime.

What we found lacking in this provision was any legislative direction as to how the court was to proceed to make this determination. We were left with a number of unanswered questions, and we have raised those in our report. For example, will an entirely new hearing be required to determine whether other crimes have taken place? How will it differ from a trial

for those very offences? Will the court hand down its sentence for the offence of which the person has actually been convicted before hearing the evidence of the other offences relating to the question of forfeiture? If not, will this not be very prejudicial to the offender?

Ultimately, all of these questions will have to be worked out by the courts themselves, but we regret that the statute does not give more explicit direction on how this provision should operate.

In its examination of the bill the committee concluded that there were two omissions that should be rectified. First, the offence of loan sharking is missing from the list of offences, or enterprise crimes as they are sometimes called, that trigger the forfeiture provisions of the bill. It is our understanding that this offence is commonly part of a cluster of offences that we think of as organized crime, and we could not understand why it was not included. In fact, we dealt with that particular crime in a bill just a few weeks ago, when we were considering other amendments to the Criminal Code.

The second omission is that, when an Attorney General applies for special search warrants or restraint orders under this bill, there is no requirement to notify the judge of any previous applications made in relation to the same individual. Both the wiretap and the telewarrant sections of the Criminal Code contain such a notice requirement, and we believe that its inclusion is equally important in the forfeiture context as well.

We brought these concerns to the attention of the Minister of Justice in the hope that he would give us an undertaking to bring those amendments forward at the earliest possible date. We have received a letter from the Minister of Justice in which he agrees in principle with the comments we have made. He has undertaken to pursue the matter of making the necessary amendments at an early date. That letter is attached to the committee's report. In fact, I spoke personally to the minister this morning and he assured me that he would follow this up as soon as possible. With that assurance, honourable senators, the committee is reassured and is prepared to recommend passage of this bill without amendment.

Motion agreed to and report adopted.

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

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

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

> That when the Senate adjourns today, it do stand adjourned until Wednesday next, 7th September, 1988, at two o'clock in the afternoon.

[Senator Neiman.]

Motion agreed to.

QUESTION PERIOD

AGRICULTURE

ALBERTA—DROUGHT RELIEF PROGRAM—CRITERIA FOR QUALIFICATION

Hon. H.A. Olson: Honourable senators, I should like to ask the Leader of the Government in the Senate several questions. Before I do I wish to congratulate the Deputy Leader of the Government in the Senate for the speed with which he brought back an answer to a question I asked him last Tuesday, August 30.

Senator Doody: You were surprised!

Senator Olson: I was not surprised. Indeed, on Tuesday I mentioned his great influence and persuasive ability, and, although he demurred somewhat, saying that he did not have that great an influence, on Wednesday I received a report from the Department of Agriculture dated August 31, 1988—in other words, the next day, which is good service as far as I am concerned.

Senator Frith: He does not know his own strength!

Senator Olson: That report outlined the terms and conditions, or the criteria, for making applications under the drought relief program related to livestock. I want him to know that I appreciate that, and my confidence in his influence, if he tries, even though it was high, is even higher. However—

Senator Doody: Now for the truth!

Senator Frith: Here comes the "but"!

Senator Olson: One of the conditions for receiving the payment for the livestock is, and I quote:

> Eligibility for the second installment will depend on enrollment in forage crop insurance.

I think that it is an improper use of the terms and conditions of the federal spending power to insist that a producer buy some kind of insurance for 1989 so that he can collect from a program that was supposed to relieve the financial difficulty in 1988. The Conservatives forced this participation. Talk about socialism or all those other words that Senator Doody uses—

Some Hon. Senators: Hear, hear!

Senator Olson: —or that Senator Barootes uses every once in a while. I should think that he would be my greatest ally in trying to get this unjust condition removed from the program. I want to ask the minister—or the deputy leader again—

Senator Argue: You are elevating him!

Senator Olson: His image, in my view, has been elevated tremendously. I have never had such good service.

Senator Argue: Higher than a minister!

Senator Olson: It is better than the service from a minister most of the time.

Now that he has demonstrated his influence and ability, I wonder if he would convey to the appropriate authority, whether it be the Minister of Agriculture, the minister responsible for the Wheat Board or whomever, that that is an unfair condition for collecting the payments that will be eligible in 1988; and would he ask the appropriate authority to follow at least some kinds of principles in keeping with our democratic structure before making it a condition that you must buy insurance—I do not care how much or how little—for 1989 before you can collect what is going to be declared your due for 1988.

• (1430)

Hon. C. William Doody (Deputy Leader of the Government): In view of the glowing tribute the honourable senator has paid me, I would be less than gracious if I did not pass his opinion along to the appropriate authorities. I will be most pleased to do so.

NATIONAL DEFENCE

CANADIAN ARMED FORCES—POLITICAL RIGHTS OF SPOUSES—STATUS OF REGULATIONS

Hon. Lorna Marsden: Honourable senators, several times over the last year I have asked the Leader of the Government in the Senate questions concerning the status of spouses of members of the Canadian military. In June the Honourable Perrin Beatty, Minister of National Defence, released a series of recommendations reflecting the report of Professor Desmond Morton of the University of Toronto. A number of recommendations were made concerning the political rights of spouses of members of the military. In a letter covering the press release, Mr. Beatty said:

> . . . pending approval and promulgation of the new regulations, Commanding Officers have been instructed to apply present regulations in accordance with the intent of the policy changes I announced.

Can the Leader of the Government in the Senate tell us whether those new regulations are now in place so that members of the Canadian military will be able to participate in any forthcoming election?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, Senator Marsden gave me notice earlier today that she would be asking questions along these lines. I did send forward an inquiry to my colleague, the Minister of National Defence, to which he has not yet responded. Having said that, and pending the official response from Mr. Beatty, I can only say that I am confident that the answer to the honourable senator's question is, generally speaking, in the affirmative.

PUBLIC WORKS

CONSTRUCTION OF BREAKWATER AT SIDNEY, BRITISH COLUMBIA

Hon. Lorna Marsden: Honourable senators, I should like to ask the Leader of the Government in the Senate an entirely different question. In our mail over the last week we have received quite a number of press releases announcing new wharves and breakwaters along the Atlantic coast. In my mind's eye there is a solid wall of breakwater from the Canadian North to the American border, but there are very few breakwaters on the west coast. Does the government intend to construct a breakwater at Sidney, British Columbia, which has been asking for one, to my certain knowledge, since at least 1911?

Senator Perrault: Since 1905!

Senator Marsden: I am sure that 1905 is correct.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there again I will have to obtain an official reply from my colleague, but, pending that reply, I think I can say with some confidence that the people of Sidney can look forward to hearing good news.

Senator Marsden: I am glad to hear it, since Sidney is my home town.

REPRODUCTIVE TECHNOLOGY

STATUS OF PROPOSED ROYAL COMMISSION

Hon. Lorna Marsden: Honourable senators, I have asked before whether the government intends to announce a royal commission on reproductive technology, which has been requested by the women of Canada for over a year now. Has there been any new development on the proposed royal commission?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators, but the matter is still under consideration by the government.

SENATE REFORM

CONSULTATIONS WITH PROVINCES—NATURE AND STATUS

Hon. H.A. Olson: Honourable senators, can the Leader of the Government in the Senate tell us whether there are now two bodies commissioned to canvass the provinces to put together a proposal for Senate reform? The government leader will recall that only a few days ago, at the provincial ministers' meeting held in Saskatoon, the provinces agreed, after some discussion, to set up a commission, I suppose, or at least to appoint the Province of Alberta to canvass the ideas of all the other provinces and put together some proposals for Senate reform.

A few weeks ago the Minister of State for Federal-Provincial Relations advised this chamber that he had asked the

Attorney General of Alberta, Jim Horsman, to put together a set of proposals that were to have been considered, I gather, at the next federal-provincial First Ministers' Conference. I am not sure whether he spelled out the details, such as the body to whom they were to report or whether they were simply to report to him. Have the provinces now set up another commission, or will they deal with that which was set up by the minister? It looks as though it will be the same chairman. Is this something new? Did the first attempt fail? What is the problem?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as I read the communiqué from the premiers' conference, the decision on a process leading to a conference on Senate reform is perfectly consistent with the agreement that Mr. Horsman and I came to several months ago. Mr. Horsman and I agreed that he, representing the province that had taken the lead on the matter of Senate reform, would canvass the other provinces informally on Alberta's Senate reform proposals, that I would follow up and touch base with the provinces following Mr. Horsman's round, and that we would later compare notes, make an assessment of the situation and see what further steps were needed.

This is a process not unlike the process that preceded the holding of the Meech Lake conference, which was a process of informal consultation among governments. The premiers, as I understand it, decided to commission officials from Alberta to support the Horsman round.

Senator Olson: Honourable senators, that is not very clear. The premiers, in their communiqué, made no mention of referring their proposal to the body the minister told us some months ago he had set up—in other words, naming Mr. Horsman to do this job for him. What are we to believe now, when there is no mention of it? They apparently were referring this to a committee. My understanding is that they have now set up a committee consisting of some members of the legislature, who are going to travel from provincial capital to provincial capital and put this together.

What puzzles me about the whole thing is that there is no mention that the task, which the provincial premiers are assigning to Mr. Horsman, is already under way as a result of discussions the minister had with the Attorney General of Alberta whatever number of weeks ago it was that he advised this house about those discussions.

Senator Murray: Honourable senators, subsequent to my conversations with Mr. Horsman, I do know that he has canvassed representatives of the western governments, for example.

Senator Olson: I know that.

Senator Murray: I believe that he has also touched base informally with at least one of the eastern provinces. What I call the Horsman round is being supported, in my view, by the activities that the premiers commissioned, which are consultations at the official level.

[Senator Olson.]

The aim of the process is identical. The aim is to identify the areas on which there is consensus with regard to Senate reform. Once Meech Lake has been ratified, we will proceed definitely to hold a First Ministers' Conference on Senate reform. That is the next step after ratification of the Meech Lake Accord.

The work that is going forward—informal, consultative, consensus-seeking—is with a view to being prepared for a successful First Ministers' Conference on Senate reform, once Meech Lake is ratified.

Senator Frith: You had better do it before September 17.

Senator Olson: We are now getting to the heart of the matter. Alberta's proposal is already well known. It is something called a Triple-E Senate, and the detail that follows from that description is spelled out.

Is the minister now saying that there will be no action by the federal government—no conference, no meeting, no discussion or negotiation—until after Meech Lake is ratified? That, of course, is what was bothering some of the premiers at the meeting in Saskatoon some days ago. Can we take it that whatever the Horsman round, as you call it, comes up with, there will be no action, not even a discussion?

The premiers said that they were not prepared to discuss it further until after the ratification of Meech Lake by all the necessary provinces. It is the federal government's position, too, that unless there is ratification of Meech Lake before the next First Ministers' Conference it will not be on the agenda.

● (1440)

Senator Murray: Honourable senators, Senator Olson asks whether there will be no discussions, and so on, before ratification of Meech Lake. What I have been trying to tell the Senate is exactly to the contrary. There are consultations and discussions taking place, and I have referred to those.

The accord that was reached in the Meech Lake process provides for a First Ministers' Conference on the subject of Senate reform after ratification of Meech Lake, which we had anticipated would take place before the end of the present calendar year. But it does not make sense—and I have no hesitation in repeating it—it does not make sense to convene a First Ministers' Conference on Senate reform to which only nine provinces will come. Only nine provinces, at a maximum, will come until Meech Lake has been ratified.

Senator Olson: That may be, but you are also committed to having a First Ministers' Conference every year and to having Senate reform on the agenda at that conference every year. That year runs out some time in February. You will have to have some kind of First Ministers' Conference again.

That will do for now, but apparently we need to have a full-scale debate on this, because the Leader of the Government is all over the place with his answers. The premiers in Saskatoon said that they were not willing to discuss Senate reform until after the Meech Lake Accord was ratified. That is clear. He is saying essentially the same thing now, but when I put the question to him in those bold terms he backs off. I do not understand that.

SOLICITOR GENERAL

CANADIAN SECURITY INTELLIGENCE SERVICE—REQUEST FOR CONFIDENTIAL FILES FROM PROVINCES

Hon. H.A. Olson: Honourable senators, I should like to ask the minister responsible for federal-provincial relations whether or not the federal government, through CSIS, the Canadian Security Intelligence Service, asked the Province of Alberta for private, confidential files on personal matters, such as medical records and that sort of thing. If it did, what does it intend to do with the authority to have access to these personal files of Albertans?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I believe that I have seen the same news reports that my honourable friend has seen. However, I have no information on the matter. I shall ask my colleague, the Solicitor General, what information he can properly disclose on that matter at this time.

Senator Olson: Well, honourable senators, that is the same kind of answer that Attorney General Horsman gives, namely, "What can properly be disclosed?" I thought it was the right of Canadian citizens to know that files were being kept on them, what they were and what the purpose was.

If CSIS wants all the personal medical files of Albertans—and Alberta is not the only province that has been asked for this; there are others as well—what does it want them for? We do not want you to come back and say that this is all you can properly tell us. People have a right to know what kinds of files the federal government is keeping and what the purpose is.

Senator Murray: Honourable senators, there is a premise to the honourable senator's question that, in the absence of some evidence, I cannot accept. He is suggesting that the federal government, through the security service, has embarked on a fishing expedition in the province of Alberta, sending, as he put it, for Albertans' medical files.

Senator Olson: That is right.

Senator Murray: To put it mildly, I rather doubt that is the case.

I will ask my colleague, the Solicitor General, what information he can properly disclose on the subject matter of the honourable senator's question.

POST-SECONDARY EDUCATION

GOVERNMENT ACTION OR POLICY

Hon. John B. Stewart: Honourable senators, in the Speech from the Throne at the beginning of this session of Parliament there was a forecast of a national conference on post-secondary education. As we know, that national conference took place in the fall of 1987.

I should like to ask the Leader of the Government in the Senate if, some time before the end of the session, he will give the Senate an account of what new actions have been taken or policies have been adopted by the Government of Canada as a result of the initiative forecast in the Speech from the Throne at the beginning of the session.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall be delighted to do that.

LITERACY DAY

GOVERNMENT INITIATIVES

Hon. Joyce Fairbairn: Honourable senators, following on Senator Stewart's question, and knowing the interest that the government leader in the Senate has in the issue of illiteracy, could he indicate to this house whether any announcements are being anticipated for Literacy Day, which is on September 8, along the lines of special national initiatives in this area?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I can tell my honourable friend that that matter is under active consideration by the government at the moment. She will not have long to wait for an answer to her question.

DELAYED ANSWER TO ORAL QUESTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer to a question asked by Senator Olson.

Some Hon. Senators: Hear, hear!

Senator Frith: A bit of favouritism is going on here!

Senator Doody: Senator Olson certainly knows how to get the answers. He just sweet talks and sweet talks, and—lo and behold!—they arrive.

An Hon. Senator: The squeaking wheel . . . !

UNITED NATIONS

IRAN-IRAQ BORDER PEACEKEEPING CONTINGENT—SHARING OF COST

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on August 17 last by the Honourable H.A. Olson, regarding the United Nations—Iran-Iraq Border Peacekeeping Contingent—Sharing of Cost.

(*The answer follows:*)

> Bilateral talks with the United Nations are taking place to determine the costs to Canada of the peacekeeping mission in Iran/Iraq. It is standard United Nations practice for participating nations to pay their deployment costs. In this particular mission, the United States has made a major contribution to our strategic airlift.
>
> Several UN member nations have indicated that they will contribute to the overall costs of this peacekeeping

operation, even though they will have no personnel in the area.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

Hon. C. William Doody (Deputy Leader of the Government) moved the third reading of Bill C-264, to amend the Criminal Code (instruments and literature for illicit drug use).

Hon. H.A. Olson: Honourable senators, does Senator Doody know whether the concerns expressed about the exemption of similar instruments used for veterinary purposes will be drawn to the attention of the drafters of the regulations? In other words, they should be cognizant of that use.

Senator Doody: I have to confess that I do not have the answer. I assume the question can be raised in committee. I take some consolation from the fact that the sponsor of the bill, Dr. Horner, is a veterinarian. I assume that he would be unlikely to damage or jeopardize practising veterinarians.

Perhaps the chairman of the committee has some answers regarding the concerns raised by Senator Olson. If not, I will attempt to get the answers for him.

Hon. Joan Neiman: Honourable senators, the question was raised in committee by several people. Senator David was there, too, to help us with this study. He also asked some of the questions regarding possible confiscation of such items as hypodermic needles and various other syringes, and how this would be handled.

The thrust of the legislation itself simply specifies that any objects will be considered illegal where they can be readily identified specifically for the use of illicit or illegal drugs. In other words, we were shown all sorts of different devices and instruments that could be used for no other purposes than those of a drug-related nature, but other instruments, such as hypodermic needles, would not be covered, and there is no need for concern in using such instruments in a normal manner.

● (1450)

Senator Olson: Honourable senators, I did not want to delay passage of the bill, but, not being a member of the committee, I wanted to understand this point. A slight inconvenience is certainly acceptable; however, if the legislation were to prohibit the use of such instruments, that would be another problem.

Motion agreed to and bill read third time and passed.

INDIAN ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Bazin, for the second reading of the Bill C-123, An Act to amend the Indian Act (minors' funds and surviving spouse's preferential share).—(*Honourable Senator Watt*).

[Senator Doody.]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Watt has asked me to stand this order in the name of Senator Marchand.

Order stands in name of Senator Marchand.

TAX COURT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. William M. Kelly moved the second reading of Bill C-146, to amend the Tax Court of Canada Act and other acts in consequence thereof.

He said: Honourable senators, I am pleased to speak to Bill C-146, otherwise known as "An Act to amend the Tax Court of Canada Act and other related Acts in consequence thereof".

Since being appointed to this place in 1982 I have noted—sometimes with amusement and sometimes with irritation—how, during the closing days of a parliamentary session, a flood of legislation will come up to us from the other place, to which we are requested to apply our sober second thought, but within a very limited period of time. In order to fulfil the procedural requirements and to facilitate the process, those of us on this side are then asked to present the bills. To aid us in this cause we are provided with huge briefing books full of technical details and language that purports to explain the bill in question. I am sure that the situation I describe was the same for our colleagues on the other side. In any event, on Tuesday of this week I was asked to speak on this bill, and shortly thereafter I received, as usual, a huge briefing book.

From the size of the briefing book I assumed that Bill C-146 was momentous legislation. From the technical language of the explanations in the briefing book I assumed that this bill was at least as technically complex as the Income Tax Act itself. I had no choice but to go back to basic principles: I read the bill carefully and thoroughly. I discovered, to my delight and relief, that, when all the technical verbiage and legalisms are stripped away, the objective of the bill, while quite important, is also quite simple and straightforward: it is to simplify the system by which federal tax and certain other assessments are appealed. This objective, which I am sure we all agree is laudable and important, springs from the work of the task force on Revenue Canada, chaired by the Honourable Perrin Beatty, which reported prior to the election in 1984.

Shortly after coming to power this government assigned additional judges to hear appeals to speed up the process. Bill C-146 goes further by making major structural changes to the process itself.

Honourable senators, allow me to describe as best I can our current system. As I understand it, under current law and procedure, appeals may be heard by either the Tax Court of Canada or the Trial Division of the Federal Court. Both have equal, original jurisdiction, and together they hear in the vicinity of 2,000 appeals each year. In practical terms, however, the Tax Court process tends to be less formal and less

expensive than that of the Federal Court. Furthermore, and this is an important complication, an appeal from a decision of the Tax Court may be heard by the Federal Court. When it does so, however, the Federal Court hears the case *de novo*. In other words, the Trial Division of the Federal Court hears an appeal as if it had not been heard before at the Tax Court level. I suspect we would all agree that having the Federal Court hear an appeal *de novo* is redundant, unnecessarily expensive and dilatory, as well as somewhat akin to double jeopardy. At least that opinion is argued.

Bill C-146 will reorganize this system in the following ways: First, the Tax Court will have exclusive, original jurisdiction to hear and determine appeals not only from assessments under the Income Tax Act but also from assessments under the Petroleum and Gas Revenue Tax Act; Part IV of the Unemployment Insurance Act relating to contributions; Part I of the Canada Pension Plan relating to contributions; the Old Age Security Act, to the extent that the appeal involves a determination of income; and the War Veterans Allowance Act and the Civilian War Pensions and Allowances Act—from a decision of the Veterans' Appeal Board as to what constitutes income.

Second, within the Tax Court there will be two procedures, or "streams", for hearing appeals: one will be a general procedure similar to the one now existing in the Federal Court, which I would call "formal" or "judicial"; the other will be an informal procedure similar to the procedures currently followed by small claims courts.

Third, the Federal Court of Appeal will be the only body to hear appeals from decisions of the Tax Court arrived at through the general procedure. These appeals from decisions of the Tax Court can be mounted either by the minister or by the aggrieved citizen or taxpayer.

I want to emphasize that decisions by the Tax Court through the informal procedure are not subject to appeal to the Federal Court *per se*. My legal friends in the Department of Justice tell me, however, that, under section 28 of the Federal Court Act, an appeal from a decision reached through the informal procedure could be made for a judicial review, but on matters of law only. It is also worth noting in this regard that, if the Minister of National Revenue mounts an appeal to the Federal Court, the government, pursuant to Bill C-146, undertakes to pay the cost to the respondent, regardless of the outcome.

Senator Frith: Hear, hear!

Senator Kelly: Honourable senators, that describes the essence, as I understand it, of Bill C-146. However, some details remain that require an explanation.

Let me return for a moment to the Tax Court of Canada. I said earlier that, under Bill C-146, the Tax Court of Canada would have exclusive, original jurisdiction to hear citizens' appeals on their tax assessments and on certain other matters. There would be two procedures for doing so: the "general" informal procedure; and an informal procedure analagous to small claims courts. The informal procedure is obviously less costly and less time-consuming. An appeal to the Tax Court can be initiated, for example, by a letter sent in by a citizen.

Under the informal procedure, the only requirement is that the appeal be in writing. To further expedite matters court rules of evidence will be flexible; taxpayers will be able to represent themselves or be represented by an agent other than a lawyer; generally, the Minister of National Revenue will have to submit a reply within 45 days from the Notice of Appeal, the appeal will have to be heard within 90 days of reply, and judgment must be issued within 60 days of the hearing.

The aggrieved citizen can choose either procedure, formal or informal, but the informal procedure is available only when the amounts in dispute are small. The bill before us establishes an upward limit of $7,000 for handling by the informal process. This $7,000 figure is meant to cover only federal taxes and penalties in dispute for any one year. Based on experience and historical data, this $7,000 ceiling would accommodate roughly 70 per cent of all claims currently appealed. Bill C-146, however, gives administrative discretion to the Governor in Council to raise that ceiling to a maximum of $12,000 in order to accommodate changing economic circumstances over time or changes in the trend of usage. Even within the general or formal procedure of the Tax Court there is further variation. For example, oral examinations for discovery are allowed only where the amounts in dispute are $15,000 or more.

Income tax appeals are now heard by the Tax Court in over 25 cities across Canada. Providing the Tax Court with exclusive, original jurisdiction for appeals of tax assessments brings the appeal process closer to the citizen.

• (1500)

The essential impacts of Bill C-146 will be: to reconstitute the Tax Court as Canada's centre of expertise on income tax appeals; to provide two appeal procedures, one formal and one informal, that will be available to the citizen and will reflect the quantity of money in dispute; to simplify, make less expensive and remove the redundancies from the appeal process; and, for appeals following the informal route, to reduce the appeal process to about six months, whereas some cases now take as long as two to three years.

Honourable senators, I believe lawyers are fond of the phrase "justice delayed is justice denied". Bill C-146, together with earlier reforms, will expedite the income tax appeal process and thus expedite justice.

Bill C-146 flows from recommendations made by the Revenue Canada task force in 1984 and commitments made in the Throne Speech in that year. With those comments, honourable senators, I commend the bill to your attention.

Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I congratulate Senator Kelly for his lucid explanation of this bill.

Did his briefing notes include a reference to the clause that deals with the minister having to pay the costs of an appeal? I

assume that occurs in any event of the appeal. In other words, even if the minister wins the appeal, he will still pay the costs; is that correct?

Senator Kelly: Honourable senators, yes, that is my understanding.

Senator Frith: Honourable senators, I move the adjournment of this debate in the name of Senator Stanbury. I do not want to preempt him, but I would say that, on the basis of the explanation given by Senator Kelly, I believe we should support this salutary bill. With that, we will have to wait until next week, when Senator Stanbury has agreed to give us his views.

On motion of Senator Frith, for Senator Stanbury, debate adjourned.

HERITAGE RAILWAY STATION PROTECTION BILL

SECOND READING

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, on this particular bill I am glad to defer to our in-house resident expert on railways and railway stations, Senator Turner.

Hon. Charles Turner moved the second reading of Bill C-205, to protect heritage railway stations.

He said: Honourable senators, on this issue Senator Sinclair and I are on opposite sides of the fence.

An Hon. Senator: Oh, no!

Senator MacDonald: Say it isn't so!

Senator Turner: Honourable senators, when we look back into the pages of our great Canadian history we find that completion of a transcontinental railway within two years was a condition of British Columbia's entry into Confederation in 1871.

With this great country tied together with two ribbons of steel, the first train left Montreal on June 28, 1886, and arrived at Port Moody, British Columbia, on July 4.

During the rail construction, the CPR—my competition—became involved in the sale and settlement of land in 1881, in the acquisition of the Dominion Express Co. in 1882, and in the acceptance of commercial telegraph messages in 1882. In addition, the company provided its own sleeping and dining cars on trains, and began the construction of tourist hotels, such as the one at Lake Louise, Alberta, and dining halls along the route in the western mountains, usually next door to newly constructed railway stations, thereby providing a place where railway passengers could purchase tickets and wait for their trains.

With the opening of the west and with the arrival of immigrants, the railway stations played an important role in the lives of those newly arrived people, who proceeded to build their homes, work their farms and thus help build this great country Canada.

[Senator Frith.]

The railway stations were meeting places where residents would have contact with the mailman and could talk to their neighbours. They were the focal point, along with churches, where people exchanged ideas, discussed problems and looked for solutions to their daily living in their newly found country.

Railway station rail service began in Canada in 1836 with the opening of the Champlain and Saint Lawrence Railroad east of Montreal. The new transportation system required the building of a new type of station that could accommodate the passengers and the freight the system carried.

No information has survived on stations for the first Canadian railways, if indeed there were stations. The earliest ones known are the road stations built between 1855 and 1857 for the Grand Trunk Railway's line from Montreal to Toronto and Sarnia. Most stations, such as the one at St. Marys Junction, Ontario, were small, rectangular, one-storey, stone buildings with broad-eaved gabled roofs and round-arched windows and doors. Those at Kingston and Belleville had a second storey within a mansard roof. The designer may have been Grand Trunk chief engineer A.M. Ross or Thomas S. Scott, the future federal chief architect who served for a time as architect to the railway.

A number of the early Grand Trunk stations were of frame construction, as were those built in 1867 for the Intercolonial Railway's route from Truro to New Glasgow, Nova Scotia, and were likely designed by Sir Sandford Fleming. The five shingled way stations on this route combined passenger and freight facilities and had a separate long platform.

The Canadian Pacific Railway used a number of station types and designers for its transcontinental route. Several stations, such as the one at Peterborough, Ontario, designed by architect Thomas Charles Sorby in 1883, were built of brick, with the passenger waiting room separate from the freight shed, and the stationmaster's quarters located above the waiting room. This arrangement became the basis for standard plans subsequently adopted by the CPR and other lines and continued well into the present century. In several early western CPR stations the passenger and freight facilities were joined by a covered platform. The Vancouver station, designed by Paul Marmette in 1886, which was also of frame construction, followed this plan, and so did the station in Calgary, built in stone in 1893, and the station in Banff, Alberta, a log construction built in 1889, both of which were designed by Edward Colonna.

Urban stations, many of them terminals, were much larger than stations along the line and were designed in the fashionable architectural styles of the time. Toronto's second Union Station, designed by E.P. Hannaford and built in 1871-73, was an Italian design with three tall mansard-roofed towers; the Intercolonial's North Street Terminal in Halifax, built by the Department of Public Works in 1874-77, displayed a fine Second Empire design; and the CPR's Windsor Station in Montreal, designed by Bruce Price and built in 1888-89, was in the Richardsonian Romanesque style. All featured large main sheds of utilitarian iron or steel construction located behind the passenger building.

Many stations were designed in the years before World War I, and twentieth-century designs generally continued the styles developed in earlier years. The station at Smith, Alberta, built in 1914 for the Edmonton, Dunvegan and British Columbia Railway, has a low freight shed alongside a gabled, two-storey passenger wing similar to CPR stations of a generation earlier and is typical of smaller stations built by most lines.

Many railways had a series of standard designs that were repeated in various locations, particularly on the prairies. The Union Station in Winnipeg, designed by Warren and Wetmore and built in 1911, and Toronto's third Union Station, designed by Ross and MacDonald, Hugh G. Jones and John M. Lyle and built during 1915 to 1920, continued the practice of using fashionable high styles for urban stations. In both instances they reflect beaux arts classicism. The Toronto station is notable for its grand concourse and its effective use of levels to separate functions. Modernism was first applied to station design with the erection of the CN Railway Central Station in Montreal by John Schofield from 1938 to 1943. The simple brick structure also became the core of an extensive commercial development in the Place Ville Marie office complex designed by I.M. Pei and Associates and constructed between 1956 and 1965.

● (1510)

After 1960 many railway stations were demolished. The numerous line abandonments and the elimination of passenger service from many surviving lines, combined with the need to renew aging building stock, brought about a wave of station removal. The few new stations built generally used simple contemporary designs, as in the CN stations at Dorval, Quebec, and Kingston, Ontario. In other communities stations were removed and replaced with small, standard shelters, such as the CP Rail station at Arnprior, Ontario, which was replaced in 1981. Public interest in the preservation of unusual railway stations has resulted in a number being reused—as, for example, in High River, Alberta; some being used as community facilities—as, for example, in Theodore, Saskatchewan; and others being used as integrated transportation facilities, as in Regina, for example.

Hon. Senators: Hear, hear!

Senator Turner: The former Ottawa Union Station is now a conference centre. The railways are beginning to cooperate with communities that wish to retain unused stations, although removal of stations continues at a rapid pace.

One meaning or definition of the word "heritage" is: What is or may be handed on to a person from his or her ancestors. For 121 years the great Senate hall has seen many great Canadians who have worked hard to fulfil the dreams of their forefathers, who came from all the nations of the world. They hoped and prayed that their children would be successful in their new homeland, and many of you senators have fulfilled that obligation.

Hon. Senators: Hear, hear!

Senator Turner: With their drive, determination and financial support, our Canadian nation and its people developed the significance of our Canadian railways, which helped shape our nation's destiny. This, honourable senators, cannot be denied. The railways, along with all their employees, helped bring Canada into existence. I must say that, in very large part, they have developed and defined the fundamental character of the nation we call Canada, as you and I know it. Canada's size and great diversity depends on our trade. The needs of settlement and political identity and character have shown that our transportation system was, and is, of great importance to us all.

When one looks back into the pages of history, our railway transportation systems have been the very backbone of our nation, in times of both war and peace. The railway stations across Canada remain the most cherished reminders of what Canada's railways have meant to the country, to the provinces, and to all the cities, towns and villages. These stations were points of departure and arrival for thousands of families as they travelled across our great land. During four wars, tens of thousands of Canadian troops said farewell to members of their families, and, yes, the great railway stations were the first things that those who returned home saw.

Therefore, we must be true to and carry out our forefathers' dreams by preserving these stations before they all cease to exist. We must move quickly.

The purpose of Bill C-205 is to provide the mechanism to ensure the preservation of Canada's heritage railway stations. This bill will forbid any railway company to destroy or change a heritage railway station or any of its features unless authorized by the Governor in Council. Non-compliance could result in a fine.

This bill does not ask for great expenditure on the part of the railway. It does not say that the railways will have to do any of the renovating, moving or redecorating. These matters will be taken care of by the people of the area who wish to preserve the stations and conserve them for future use as art centres, museums, libraries, town offices, public meeting halls, and so on. People across this nation want to save these stations and put them to good use in their communities. Led by community fraternal clubs, they are prepared to fix up the grounds around the stations so that they can be used once again and will be representative of a bygone era and of their communities' local history.

The following is a brief outline of the history of the preservation of railway structures and some of the background that led to Bill C-205 seeing the light of day in November 1982.

How many early railway stations are there? According to the Canadian Inventory of Historic Buildings, these stations numbered 1,391 as of 1977. The criteria for including buildings in the inventory were: buildings constructed prior to 1885 in Atlantic Canada, Quebec and southern Ontario; buildings constructed prior to 1914 in northern Ontario and in the west. As I have said, the total number of stations recorded is 1,391. The number of stations on which data are known in 1988 is 876. The number of stations still standing in 1988 is 485. The

number of stations demolished is 391. The number of stations moved from their original site is 113.

What is the main reason for the demolition of federally regulated railway stations having heritage value? There is no federal law to protect these structures. In most cases, when a railway company no longer needs a station, it applies for a demolition permit. In some cases, the railway will offer a station to a community for a nominal sum, but only if the building is moved. The practice of moving stations is expensive and hazardous, and destroys the context and therefore much of the heritage value of these structures. Because many communities have been unable to meet the demand to move stations in order to save them, many have been demolished. Examples include stations in Leduc, Raymond, Taber, Ste.-Anne-des-Chenes, Truro, Campbellford, Chesley, and so on.

What stations have a questionable future? There are dozens, including: in Quebec, Mont-Laurier, Labelle, Mont-Tremblant, Sainte-Agathe, Mont-Rolland, Saint-Jérôme, Sainte-Thérèse, Saint-Martin; in Ontario, Orangeville and Glencoe; in Manitoba, the CP station in Winnipeg; in Nova Scotia, Kentville.

In November 1982 Canadian Pacific Railway demolished the West Toronto Station without permission. In September 1983 Mr. Jesse Flis, the MP for Parkdale-High Park, took a strong interest in the problem. In August 1986, when Parliament prorogued, Bill C-211 died before the Standing Committee on Fisheries and Forestry had had an opportunity to discuss its subject matter.

In October 1986 Mr. Gordon Taylor, MP, introduced Bill C-205, which is identical to Bill C-211, as a private member's bill. It received first reading. In November 1987 Canadian Pacific was found guilty of criminal charges relating to the demolition of the West Toronto Station.

● (1520)

Honourable senators, Heritage Canada has at the present time about 60 community municipal railway station projects under active consideration or renovation in every province of Canada. I have a complete list of those.

Honourable senators, the Honourable Ed Lumley was instrumental in obtaining $5 million for the Heritage Canada Foundation. That money was put to work in 70 Canadian communities which were selected and whose main streets were developed by consultants who used the universal approach of mixing the old and new buildings so that the heritage of the communities was preserved. I believe Perth, Ontario, was the pilot project back in 1979-80. Every dollar that Heritage Canada put into the program was matched by $14 from the private sector, thus creating 2,000 jobs across Canada.

To me, this is a very practical approach to rebuilding our downtown areas while, at the same time, protecting our heritage buildings so that they can compete with the build-up of malls in the outlying areas of our cities and towns. We must observe that most malls are leased or rented by large American or Canadian chain stores that pay the monthly rents and take the profits back to their head offices, which are usually in another city or another country. The downtown area merchants of each city or town are the people who pay the taxes and help the hometown communities to survive in our fast-changing society.

[Senator Turner.]

Honourable senators, I wish to thank the honourable member for Bow River for his desire to protect heritage railway stations in Canada, thus carrying on the good work of all members of the committee of the other place, and I thank especially the former member, Jesse Flis, who sponsored the original bill to preserve the heritage railway stations, with the help of the officials and employees of the Heritage Canada Foundation.

Hon. Ian Sinclair: Honourable senators, as Senator Turner has indicated, this is a very important bill. I understand now why Senator Doody deferred to him. To speak on this subject requires some knowledge, and Senator Turner, who has passed many of these stations and waved at them and paid no attention to them, now seems, all of a sudden, to have picked up a lot of knowledge.

Senator Frith: Except to pick up his orders!

Senator Cottreau: Don't be bitter!

Senator Sinclair: I am not being bitter, but this is an important matter.

I am a little sensitive about the finding of a criminal case against Canadian Pacific. I am a little sensitive about that because I was the person who authorized them to demolish the station. We needed to do that to serve the people; yet we were convicted.

This is an important matter. Rather than take the time of this chamber to deal with all of the issues, I think the bill should be referred to committee. I am sure many witnesses will appear before that committee.

Senator Frith: The Banking, Trade and Commerce Committee?

Senator Sinclair: I think that the Standing Senate Committee on National Finance would be an excellent choice.

Senator Doody: If it is to be referred to committee, I suggest that it be referred to the Standing Senate Committee on Transport and Communications.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Turner, bill referred to the Standing Senate Committee on Transport and Communications.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixty-second report of the Standing Senate Committee on Internal Econo-

my, Budgets and Administration (Supplies and Services), presented in the Senate on August 30, 1988.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator LeBlanc has asked me to speak to this order. He presented the report on August 30 to give senators the chance to read it, and he has asked me, on his behalf, to move its adoption today.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that all remaining orders stand, on the understanding that any senator who wishes to speak on any order is perfectly entitled to do so.

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

Hon. Senators: Agreed.

THE SENATE

DELAYS IN CONSIDERATION OF LEGISLATION—DEBATE ADJOURNED

Hon. William M. Kelly rose pursuant to notice of Tuesday, August 30, 1988:

> That he will call the attention of the Senate to the question of delays in the consideration of legislation in the Senate.

He said: Honourable senators, at the end of this year I will have completed six years as a member of this chamber. Before I arrived here, like all other honourable senators, I am sure, I carefully studied the history of the Senate and paid particular attention to the original purpose of its creation. The role as the chamber of sober second thought seemed to me to best describe the meaning of this place.

Throughout these six years I have continued to be impressed with the wide range of talent and experience that exists among colleagues here. Nothing has changed my mind on what we were, and are intended to be, in the performance of our responsibilities.

It is for this reason that I feel compelled to comment today on my reaction to the free trade legislation, which has just arrived in this place, and the direction from the Leader of the Official Opposition in the other place to the opposition members in this chamber that this legislation be blocked—

Senator Perrault: He didn't say "block". He never used the word "block". That is a propaganda blitz.

Senator Kelly: With respect, honourable senators, that is a personal opinion. It is not a propaganda blitz. This has not been discussed by me with the caucus of the government side of this chamber. It is an opinion, senator, that I am trying to express.

Senator Frith: We want you to get the words right.

Senator Kelly: I will say it again; this is my opinion.

Senator Frith: We were not directed. Get it right!

Senator Kelly: If I may proceed then, I refer to the directive that this legislation be blocked unless and until a general election is called. I believe that to proceed on that basis is a gross misuse of this chamber!

Parliamentary battles over significant legislation are not unknown to us and are not even unusual, particularly since 1984. I sense, however, that this particular battle could well be pivotal in deciding not only the future of this place but also the future development of responsible government in Canada. It goes without saying that the Senate has constitutional obligations and responsibilities. Most of us here also agree that the Senate has a useful role to play in the legislative process.

Just this August, honourable senators, the members of the Senate Finance Committee carefully reviewed legislation to establish the Atlantic Canada Opportunities Agency (ACOA). Some honourable colleagues were particularly concerned about protection of regional interests. I recall that certain senators were adamantly opposed to a section of the proposed legislation that would replace the old Cape Breton Development Corporation—or DEVCO, as it is known—with the Enterprise Cape Breton Corporation. They maintained that Cape Breton would eventually be disadvantaged by the change, because they believed, and believed sincerely, that aid for the region would be passed from a government authority into the hands of an agency with no special mandate to concentrate on Cape Breton.

● (1530)

The ACOA legislation was in the Senate for three months. The committee finally did agree to let the legislation pass, because, according to Senator Frith, as reported in *The Globe and Mail*, the government has in effect said: "This is it; we are going to plow ahead." So that is the stage at which the Senate should just say, "Okay!" Senator Stewart, according to the same newspaper, added similar sentiments when he said, "There's no point in moving for amendments. The government has made its opinion clear." Similar comments were made by other senators during final stages of discussion on Bills C-55, C-84 and, of course, on Bill C-22. Honourable senators, I only wish the same logic could be applied to the free trade legislation.

Particularly in this politically charged environment, we senators have a duty and a responsibility to be careful, lest in the heat of the moment and for short-term gains we do something that establishes a precedent that leads to unforeseen or negative consequences down the road.

Because our Constitution and system of government are relatively flexible; because they evolve, adapt and change through the development of constitutional conventions—precedents, as it were—we have to be very careful about the

precedents we establish. Like someone dropping a pebble into a pool, the ripples spread out to infinity and into the unfathomable future.

I believe that the Leader of the Official Opposition's initiative with respect to the free trade legislation and the apparent acceptance, honourable senators, of his direction or his advice by Liberal senators is such an action. I believe that action, if allowed to stand, will have significant implications for our system of government, in particular for the role of this place, the Senate.

One of the great achievements of the Westminster system of government is its flexibility. Our written Constitution is the core around which constitutional conventions have evolved over time to create an effective constitution. Although the evolution is slow and laborious—as it should be to safeguard the stability, legitimacy and credibility of government—our Constitution allows our system of government to adapt itself to changing circumstances and requirements. It allows our Constitution and our system of government to be efficient, effective and responsive.

Let me be clear, honourable senators: I do not contend that the Senate lacks the strict constitutional right, under our written Constitution, to amend or delay the free trade legislation, or any other piece of ordinary legislation approved by the House of Commons. To use Dr. Forsey's words, the Senate can do so "until the cows come home".

The strict constitutional ability of the Senate to block or delay ordinary bills is not the issue here. As a matter of constitutional convention, however, our ability to block or delay this legislation pending an election is not nearly so clear. I am, of course, aware of the so-called "precedent" of the Naval Bill in 1913. Perhaps, in strict historical terms, that represents, in fact, a precedent, but Canada and the effective operation of our government have changed much in the intervening 75 years, and I wonder about the true value of this precedent in today's times.

I assert that, if our system of responsible government is to survive, the Senate must eventually accede to the wishes of the popularly-elected lower house. We may delay, to let contentious legislation cool, as it were, or we may propose amendments and alternatives; but, in the end, we must allow the House of Commons to have its say—and, incidentally, let the majority in the House of Commons brave and suffer any electoral or other consequences that result.

On those rare occasions when the Senate decides to block legislation, surely at a minimum we must make the decision ourselves, based on a thoughtful and thorough review of the legislation itself. We should not allow such an important action to be dictated to us by external forces perhaps looking for political gain.

If the Senate is to use its constitutional rights and prerogatives to the letter of the Constitution, it should itself abide by the letter of the Constitution and constitutional precedent and make such decisions internally. When the Senate allows its actions to be dictated by external forces, the Senate undermines its own credibility and legitimacy. Our protestations of constitutional rectitude appear to be nothing more than expedient camouflage for our involvement in opportunistic partisanship.

Also, I do not want my own motives to be misconstrued. While the move to block the Free Trade Agreement is essentially a partisan manoeuvre, my concern is not motivated by partisanship.

Senator Perrault: No, of course not. It comes through in every line!

Senator Kelly: While I support the Free Trade Agreement—I happen to support it—my remarks today are not motivated by concern over the future of that agreement. I would be equally concerned if the Senate were to bow to external instructions or pressures on any other piece of significant legislation—regardless of whether I happened to agree with the legislation in question.

Doubtless, the Free Trade Agreement will be an issue in the forthcoming election, but it would have been anyway. What the opposition leader's manoeuvre has done is to make the Senate an election issue as well—perhaps the predominant one.

I, for one, have no objection to the role of the Senate being the focus of public discussion and debate. I would much prefer, however, if such discussion and debate took place in a calm and deliberate fashion and not in the highly-charged, emotional and often angry environment that will doubtless characterize some or all of the debate in the forthcoming campaign.

A quick review, I might say with great respect to Senator Doyle, of editorial opinion on the issue of Senate reform over the past couple of weeks will give everyone a gauge of the relatively low level of sophistication and objectivity such a debate is likely to engender. If the opposition leader wanted a full debate on free trade, perhaps he should have proposed a national referendum. A referendum would allow the public to focus clearly on a single issue and say unequivocally "yes" or "no" to a single proposition.

Everyone here knows that an election campaign is fought and won or lost on a wide range of diverse issues. This election will be no different. Free trade will be but one of the issues competing for time and attention along with many other national, regional and local issues and concerns, from abortion to the personalities of the leaders, from the Meech Lake Accord to nuclear submarines, from child care to Senate reform.

In purely practical terms, what have we done, or what do we risk doing, by bowing to external partisan pressure to stop this bill? The Senate's role is twofold: first, it represents the regions of Canada; secondly, it acts as a chamber of sober second thought, or, as Sir John A. Macdonald put it, "a saucer in which to pour legislation in order to allow it to cool". These roles are important, perhaps vital, but they can only be performed effectively if the review conducted here is quantitatively and qualitatively different from that which occurs in the other place; if the Senate rises above the partisanship that

tends to characterize debate and legislative review in the House of Commons.

If the Senate, as currently constituted, is to remain a viable and credible institution, it must perform a function that is both worthwhile and, in some material aspects, different from the function performed by the House of Commons. There is no purpose in a Senate that simply rubber-stamps government bills. Equally, there is no purpose in a Senate that allows partisan motivations to direct it to do here what failed in the House of Commons.

If we allow ourselves to become enmeshed in partisanship; if our review becomes qualitatively and quantitatively the same as that in the lower house; if our actions are dictated by partisan considerations by the leadership—any of the leadership—of the lower house; then the Senate becomes as partisan as the other place and becomes redundant. We then lose our identity and our reason for being.

Our effective Constitution and the combination of the written Constitution and accumulated conventions have given us a reasonably efficient legislative process. Unlike the American system, with its division of powers, its checks and balances and its often complex and dilatory legislative process, our system of responsible government has given us a reasonably straightforward and efficient process.

There is no question that in our system the Senate acts as a check and balance to the House of Commons; but if that check and balance is not applied selectively and judiciously it will begin to undermine the efficiency of our legislative process and ultimately impact on the legitimacy and credibility of this institution. And, finally, if the check and balance is not applied selectively and judiciously, the Senate's actions may soon, in my opinion, imperil responsible government, on which our system of government is based.

Honourable senators, perhaps the Senate should act as an elected body. But before it does so, before we act as an elected body, surely the first step is to become an elected body. Maybe that is where we are headed, but until we get there we have to abide by the written rules and conventions that apply to us as an unelected body.

I am told that a former Prime Minister often said that a holder of public office should be careful not to diminish the powers and prerogatives of that office carelessly, capriciously or unwittingly. We should all take Mr. Trudeau's admonition to heart.

I believe that the legitimacy and credibility of this institution have been undermined, and will continue to be undermined, if we allow ourselves to succumb to the use of this institution for short-term partisan gain, especially if we are so clearly seen to be doing so.

I recall the reaction of certain of my colleagues opposite when government ministers called upon the Senate to pass government bills such as C-84, C-55 and C-22, all pieces of important legislation. Honourable senators, I hope that those same colleagues will follow the principles they followed before on this issue.

Some Hon. Senators: Hear, hear!

Senator Steuart: I am glad you fellows opposite are not partisan!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I respect Senator Kelly for his intervention to express his opinion on the subject he dealt with in his inquiry. I listened carefully to what he had to say, and everything he had to say was based on an incorrect premise. He insisted on using verbs that suited well the conclusion he wanted to reach, and those verbs were "to order", "to direct" and "to block". The rest of his speech, then, articulate and eloquent though it was, falls to the ground, because it was based on an incorrect premise.

● (1540)

Senator Kelly made the point that senators should not accept directions from partisan outside agencies or persons. I agree with him, and I would not do so. Indeed, he would not do so if the leader of his party gave such a direction to him.

Honourable senators, we have to be careful about this word "partisan". That word is usually used in a pejorative way, and it was so used today by Senator Kelly. Of course, the root of the word "partisan" is "party", and it is meant in the context of a political party. Senator Kelly has frequently, in his six distinguished years here, used the word "partisan" in a pejorative way. "We should not be motivated by partisan considerations"—as if there were something a bit sinister, a bit dirty, about partisan considerations. Of course, he is joined in that view by many people in the media and elsewhere, who say, "Oh, that was motivated by partisan considerations", the implication being that therefore it is not worthy of any respect. But the truth is that we have a party system in Canada. The parties are not mentioned in the Constitution, but the Constitution is based on their existence.

The Fathers of Confederation, who wrote the Constitution—which justifies our being here, which justifies the House of Commons' being there, which justifies the cabinet's being where it is and justifies the Prime Minister's being where he is—were members of political parties. The dirty dogs! Imagine belonging to a political party! Honourable senators, Senator Kelly belongs to a political party; he does not sit here as an independent, nor does he sit here as a non-partisan senator.

Senator Perrault: He has never been accused of that!

Senator Frith: That is one of the fallacies upon which his entire speech is based. However, to get back to the question of direction by outside partisan persons or interests, I first want to say that I do not think there is anything wrong with party activity. A lot of people have lost their lives so that we can have a party system, and, if those people went to that extreme, it follows that they did so in order that there can be partisan political activity in this country.

This problem does not arise in Russia, where there is only one political party. There, Senator Kelly could stand up in the Senate—if there were such a body—and say, "Of course, here in the Soviet Union we have no partisan activity." Perhaps I should say that they have just one partisan activity, that of the

Communist Party. Therefore, they have no need to use the word "partisan".

Honourable senators, I am sure that if the Prime Minister directed Senator Kelly to do something in this chamber he would not do it. The Prime Minister, I take it, has not directed him to support the free trade legislation. I assume from what he has said that, if the Prime Minister told him, "Senator Kelly, I direct you to support the free trade legislation in the Senate", he would say, "Prime Minister, what are you asking me to do? Do you realize that you, sir, have said that I ought not ever to accept directions from an outside, partisan person?" Of course, I think the Prime Minister would accept the fact that he is partisan—I hope that he would and would congratulate him for doing so. Honourable senators, of course that case is absurd, because the Prime Minister would never direct Senator Kelly to do such a thing; if he ever made the mistake of trying to do so, Senator Kelly would tell him where to go.

On the other hand, if the Prime Minister—that partisan, outside person—asked Senator Kelly to support the legislation, there would be nothing wrong in his saying, "Prime Minister, I accept your request. In fact, I will undertake to support that legislation in the Senate, even though you, sir, fall into the category that I have defined as that of a partisan, outside influence. However, since you have only asked me to do this, I feel I can accede to your request."

Honourable senators, that is precisely what happened with regard to the request of Mr. Turner that seems to have attracted such indignation from Senator Kelly. I must point out that I make my remarks sincerely, because Senator Kelly is a fair-minded person—wrong-minded, sometimes, but fair-minded. He was fair-minded and right-minded when he dealt with Bill C-146—he is entitled to make his mistakes like the rest of us—but he is not so fair-minded when dealing with this inquiry.

I am sure that Senator Kelly will understand the distinction between "directing" and "requesting". I can tell him, as I tell all honourable senators, that this was a request on the part of Mr. Turner made at a caucus meeting at which, as far as I know, 80 to 90 per cent of the senators were present. It was discussed and the senators accepted it.

Hon. Finlay MacDonald: Unanimously?

Senator Frith: At the caucus meeting it was accepted unanimously, although not all Liberal senators have accepted it. Senator van Roggen declined to do so, but he was not present at that caucus meeting.

Senator MacDonald: I expect that he was the exception. Are there others?

Senator Frith: No, there are no other exceptions.

Senator MacDonald: When will the honourable senator permit questions?

Senator Frith: Right now.

Senator MacDonald: Is it fair to say, then, that as Senator Kelly began his remarks Senator Perrault came to life—

[Senator Frith.]

Senator Frith: Is this a question?

Senator Perrault: I will be even livelier yet.

Senator MacDonald: The word that Senator Kelly used at the time, I believe, was "block"—

Senator Frith: I will not cede the floor to the honourable senator, because this is not a question.

Senator MacDonald: May I complete my question? I do have a preamble.

Senator Frith: Well, then, let us hear it. I am coming to the matter of the block.

Senator MacDonald: I wonder if Senator Frith could tell those of us who do not always get the subtleties with which he is so silkenly familiar the difference between a block and acceding unanimously—with one exception—to a request made by the Leader of the Official Opposition to the Liberal majority in this house to refuse the passage of the Free Trade Bill until an election is called.

Senator Frith: Yes, honourable senators, I was coming to that. I am dealing now with the first error, as I have said, which was the use of the word "direction"; the second error was the use of the word "block".

● (1550)

I have dealt now with the question of "direction". It was not a direction. It was a request that was accepted. The undertaking was given, and it was given unanimously. It was unanimous because, although, as you have pointed out, we have since heard the exception of Senator van Roggen, he was not present at that caucus.

Now I come to the question of "block". Another proudly partisan, I think, Canadian political figure, Sir John A. Macdonald, made it quite clear at the time of Confederation that the powers given to the Senate included the power in exceptional circumstances—and that was something for the senators to decide—to postpone passage of a bill if they felt there ought to be an election and an opportunity for the people to decide before the bill passed. I quote that authority, which is only in exceptional circumstances.

It is the opinion of Senator Kelly's colleagues on this side that these are exceptional circumstances, including the fact that the government not only did not have a mandate to introduce and obtain the passage of such important legislation but, in fact, the Prime Minister himself had said that he was against the idea of free trade with the United States. Those are the factors that persuaded Senator Kelly's colleagues on this side that these are exceptional circumstances. I do not expect Senator Kelly to agree with them, but I expect him to respect them, as I respect his opinion.

If he had used the right verbs and the right noun and had said that it was a request, and that the request was to postpone—which is the word that Sir John A. used—until there was an election, he would certainly be entitled to be equally critical, if that is his opinion. However, I only ask him to respect our judgment in the same circumstances. That is the

distinction that Senator MacDonald wanted to draw. I may have to repeat it, because he does not seem to see any distinction between the word "block" and the words "postpone until there is an election".

Perhaps I should say it again more slowly. To us—perhaps not to him; I would say apparently not to him, considering the state of high dudgeon he is working himself into—there is a distinction between the two. That is the reason Senator Kelly's colleagues on this side do not feel they have taken direction. They have given an undertaking in response to a request, as we would expect him to do if his leader made a similar request, or at least would have the right to do without criticism, and that undertaking is to postpone the final determination in the Senate until there is an election. If the election result makes it clear that the people want this agreement, then part of the undertaking is to pass the legislation and support the legislation.

I hope that Senator Kelly agrees that there is nothing wrong, that an otherwise acceptable and perfectly justifiable undertaking and decision is not somehow made impure and sinful because it is requested by the leader of a political party. I hope Senator Kelly also agrees that there is nothing wrong with being a member of a political party or the leader of same.

If the Prime Minister ever asks Senator Kelly to do something, I hope he will give the Prime Minister the same respectful and courteous attention that we gave our leader when he made such a request to us.

Hon. Efstathios William Barootes: For clarification, I should like to ask Senator Frith a question, because, as usual, I am a little confused.

Senator Frith: I take it, Dr. Barootes, that you are not taking anything for this constant confusion. You could see a doctor about it.

Senator Barootes: This is just like a confessional booth. You mentioned to us the distinction between "postponement" and "blockade" in this instance.

Senator Frith: Yes, in any instance. It is a clear distinction.

Senator Barootes: Had this administration proposed this free trade deal in the first year of its administration, and had you decided, on your side of the house with your majority, to postpone—not to block, just to postpone—the bill until there was an election, would you regard that three or four years' postponement as obscene or as a blockade, or would it still be only a little postponement?

Senator Frith: I would not regard it as obscene. It would not be a blocking, because it would not be a voting against the legislation. It would still be a postponement. There is a big distinction, in my opinion. Senator Doyle just woke up. What did I get him on?

Senator Perrault: He was in the arms of Morpheus.

Hon. Richard J. Doyle: I came to a state of wakefulness when I heard what you said to Senator Barootes. That leaves me with the understanding—and you must correct me if I am wrong—

Senator Frith: Be sure I will, because probably you are wrong.

Senator Doyle: That leaves me with the understanding that no party, other than the Liberal Party, can ever govern this country comfortably so long as you choose to say, "We will postpone." It does not matter if the Conservative Party is returned, or the New Democratic Party is elected, or the Social Credit Party is revived and elected; not until the majority that your party holds—this partisan factor—has disappeared will it be possible for a government of this country to introduce legislation of any kind that might disturb your leader to the point where he asks the Senate to postpone it. The Senate, indeed, will postpone it and the government in exile will have prevailed.

Senator Frith: Senator Doyle asked me to correct him if he was wrong, and I take great pleasure in doing so, because he is.

Senator Perrault: He wants the Pulitzer Prize for fiction.

Senator Frith: I have to circle the word "comfortably". I do agree with Senator Doyle that it is not the duty of the Senate to make any government comfortable—Liberal, Conservative or otherwise.

I see the role of the Senate traditionally in this country, and in every country where there is a Senate, as being a bit of a nuisance to the government. The Liberals, being in the majority, perhaps have not been a sufficient nuisance to the government, although, as you know, there have been occasions when we were. I take Senator Doyle's point on that.

With regard to the rest of his comments, Senator Doyle is not to understand that every government, no matter what government, must please a capricious taste of the Liberal majority in the Senate—or a Conservative majority in the Senate, if it should come to that. That is not my proposition, nor any corollary to the proposition.

The answer to Senator Barootes was simply that there is no time fix on Sir John A.'s concept. There is no question that a postponement for three years is a very serious postponement, a much more serious postponement than one for a matter of months that arises, as Senator Barootes said, in the last year of a mandate. I accept the distinction. There is a judgment call to be made there, and whoever makes that decision has to take into account the fact that there is a difference.

● (1600)

However, that is an academic question in these circumstances, because the decision was made virtually in the last year of the mandate. But the facts that I have stated are not academic; this government never gave the Canadian people an undertaking, or even an indication, that it intended to bring forward such important legislation; and since the other fact is also sound in this case and is not academic, namely, that the Prime Minister rejected the concept of a bilateral Free Trade Agreement with the United States, the circumstances that were the basis—

Senator Barootes: Like price and wage controls?

Senator Perrault: There is quite a difference!

Senator Frith: The basis of Senator Barootes' question was a hypothesis and is of no help to us in this case at all.

Senator MacDonald: Well, then, Senator Frith, what is your basis for suggesting that, since the issue of free trade was not a matter in the campaign of 1984, any ruse or parliamentary trick is now quite legitimate, considering that it was not? What is your Canadian authority for that?

Senator Frith: Sit down and I will give it to you.

Senator MacDonald: Do you want to talk about the Parliament Act of Great Britain, or something else that has no application to us?

Senator Frith: But that is an academic question, too, because we are not dealing here with a ruse or a trick.

Senator Barootes: What about the price and wage controls in 1975—

Senator MacDonald: No, 1984.

Senator Frith: In 1984? These fellows have to be careful.

Senator MacDonald: You might answer that. You have been ducking that now about five times.

Senator Frith: If you two professors of history will get your dates straight and try to put a question together, I will try to deal with it.

Senator Perrault: You are obsessed with the past; that is all!

Senator Barootes: Dates are not as important as all that!

Hon. P. Michael Pitfield: Honourable senators, I wish to ask Senator Barootes a question, if he will permit me to ask it.

Senator Barootes: If I can answer it, you certainly may.

Senator Perrault: That is a challenge!

Senator Pitfield: As you know, I tend to favour the Free Trade Agreement, although I have been troubled by the way it has been brought forward. It would be helpful to me if you could tell me if there is any urgency to the passage of this agreement, other than that which the government has imposed upon itself by the manner in which it has gone about the negotiation of it.

Senator Barootes: I cannot answer for anyone but myself.

Senator Perrault: That is tough!

Senator Barootes: My answer is that there is urgency with this bill, not with the agreement.

You said, "Is there any urgency about the agreement?" The agreement is signed, sealed and delivered. It is a foreign treaty, a foreign agreement. All we are talking about now is a bill to implement the substance of that agreement. A deadline has been bilaterally imposed or agreed to between our American friends and this government. That deadline is presently January 2, 1989. That is my understanding.

On motion of Senator Perrault, debate adjourned.

The Senate adjourned until Wednesday, September 7, 1988, at 2 p.m.

APPENDIX "A"

(*See p. 4237*)

CRIMINAL CODE
FOOD AND DRUGS ACT
NARCOTIC CONTROL ACT

BILL TO AMEND—REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

THURSDAY, September 1st, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-FIRST REPORT

Your Committee, to which was referred Bill C-61, An Act to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act, has, in obedience to the Order of Reference of Wednesday, July 13, 1988, examined the said Bill and now reports the same without amendment, but with the following comments:

The Committee has examined Bill C-61, the Proceeds of Crime Bill, very carefully and has heard testimony from the Minister and his officials and from representatives of the Canadian Bar Association and the defence bar.

All members of the Committee strongly support the goals of this bill. We agree that there is a need for strong measures to deal with organized crime. The Committee does, however, have some concerns which it wishes to outline.

The first is the issue of dual criminality. The bill permits forfeiture of a person's property for certain named offences if the activity which produced the property took place elsewhere and would have constituted an offence *if it had occurred in Canada*. In theory, therefore, the activity could have been legal in the jurisdiction where it took place. For this reason, the bill has been characterized as lacking the requirement of dual criminality found in extradition proceedings.

Identical issues are raised by the new offence of laundering the proceeds of crime. It will become a criminal offence to launder property or proceeds obtained directly or indirectly as a result of an act or omission that, if it had occurred in Canada, would have constituted one of the named offences.

A very strong argument can be made that to convict people of an offence, or to order their property forfeit, where the underlying activity was *legal* in the jurisdiction in which it occurred would be to violate section 7 of the *Canadian Charter of Rights and Freedoms* whereby the right to life, liberty and security of the person is guaranteed. We have difficulty in accepting that conviction in those circumstances would be considered to be in accord with the principles of fundamental justice required by the section.

The *Criminal Code* has long contained a provision (section 312) which makes it an offence to possess property obtained by crime and includes property which results from an act or omission that, if it had occurred in Canada, would have constituted an offence punishable by indictment. In other words, there is no requirement of dual criminality in this offence. Government officials have informed us that this part of the section has never been used. They argue that its existence is proof that the principle is accepted and, somewhat paradoxically, that the fact that no one has ever been charged is evidence that the lack of a dual criminality requirement in this bill will not be abused.

The Committee does not believe that this approach will be acceptable under the *Charter* should such a provision ever be used and its constitutionality challenged, whether the challenge is to a section of the *Code* that has been there for a considerable time or whether it is to a new provision introduced by this bill.

On the other hand, we accept that the problem may be more theoretical than real, given that the acts committed by the people targeted by the forfeiture provisions of this bill will, in virtually all cases, be illegal in the foreign jurisdictions where they took place.

The Committee also has concerns about the provision in the bill that permits forfeiture of proceeds for offences other than the one for which the person has been convicted. If a person is convicted of a named offence but it cannot be established that the property relates to that particular offence, the property can still be ordered forfeit if the court is satisfied beyond a reasonable doubt that the property is proceeds of crime.

The Committee appreciates that the lack of a provision of this type could result in a serious loophole and could jeopardize the attainment of the goals of the legislation. On the other hand, we feel that there is a lack of legislative direction as to how this provision should operate. Will an entirely new hearing be required to determine whether other crimes have taken place? How will it differ from a trial for those very offences? How can the court avoid prejudice to the offender when deciding the sentence for the original crime for which the person has been convicted after hearing evidence related to other criminal activity relevant to the forfeiture proceedings?

The Committee pursued two specific concerns with the Minister. First, that the offence of charging a criminal interest rate, commonly called loansharking, was omitted from the list of named offences. Secondly, that when applying for special search warrants or restraint orders under this bill, there is no requirement that the Attorney General notify the judge of any previous applications made in relation to the same individual. The committee notes that both the wiretap and the telewarrant sections of the *Code* contain such a notice requirement and we believe that its inclusion is equally important in the forfeiture context. We note as well that the Law Reform Commission of Canada in its Working Paper 30 on search and seizure recommended that such a requirement be added to the general search warrant sections of the *Code*. The Committee was informed by government officials that certain other provisions of Bill C-61 reflect recommendations of the Commission.

As a result of our representations, the Minister has agreed in principle with our representations and has undertaken to proceed as outlined in his letter as follows:

"The Honourable Joan B. Neiman
Chairman
The Standing Senate Committee
on Legal and Constitutional Affairs
Room 475-S
East Block
Ottawa, K1A OA4

Dear Senator Neiman:

I have been informed by my officials that the Standing Committee on Legal and Constitutional Affairs is interested in completing its review of Bill C-61 and recommending its adoption at third reading in an effort for it to receive Royal Assent this week but that, prior to completing your review of this bill, you would like my views with respect to possible future amendments to the provisions which the bill would add to the *Criminal Code*.

As I understand it, your Committee would like to add to the list of enterprise crime offences the offence of loansharking or criminal interest rate. Your Committee would also like to see the *Criminal Code* amended so that an application for a special search warrant and an application for a restraint order, as provided for under sections 420.12 and 420.13 respectively, require a statement as to any prior application for such warrant or order under these sections, of which the Attorney General has knowledge. With respect to this last amendment you are undoubtedly aware that a similar type of provision already exists in the *Criminal Code* in respect of an application for a wiretap authorization and a telewarrant application.

I am pleased to advise you and your Committee that I agree in principle with the amendments and, subject to a closer examination by my officials and in consultation with my provincial and territorial colleagues, will proceed with a view to the inclusion of the amendments in the *Criminal Code* at an early date.

With kindest regards, I remain,

Yours sincerely,

Ray Hnatyshyn"

Respectfully submitted,

JOAN B. NEIMAN
Chairman

THE SENATE

Wednesday, September 7, 1988

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

Prayers.

THE LATE HONOURABLE FRED A. McGRAND

TRIBUTES

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, it was just seven months ago that we paid tribute to our colleague, Senator McGrand, on the occasion of his retirement from this chamber. I was saddened on the weekend, as I am sure all honourable senators were, to hear the news of his passing at the age of 93.

As a young physician, Senator McGrand began his public life in municipal politics in the province of New Brunswick more than 60 years ago. He later became a member of the New Brunswick Legislature and of the cabinet in that province. For more than 32 years he served in this chamber, having been appointed here in 1955 by Prime Minister St. Laurent.

A few months ago I referred to the brilliant report entitled "Child at Risk", published some years ago by the Standing Senate Committee on Health, Welfare and Science chaired by Senator McGrand. It was an exceedingly sensitive and interesting piece of work on a most complex subject. The report, although published some years ago, is still very relevant to any consideration of policy on that subject.

Honourable senators, Senator McGrand was one whose career enhanced the reputation of this place and added lustre to the reputation of Parliament, politics and public life. I and my colleagues in the government are saddened by his passing. Parliament and the country are better for his contribution to public life.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, as Senator Murray has pointed out, it was only earlier this year that we paid tribute to Senator McGrand on his resignation from the Senate. Tributes were paid in this chamber on February 3, 1988. Shortly after that, Senator Petten, Senator McElman and I had an opportunity to visit Senator McGrand at the nursing home, where we presented to him, on behalf of our caucus, a memento intended to convey to him a sense of admiration and appreciation for his association with us over the years. It was, in a sense, a joyous occasion because of the excellent mood of Senator McGrand, who was accompanied by his wife. So it is particularly sad today to recall that happy occasion.

When the tributes were paid to Senator McGrand earlier this year in this chamber, Senator McElman, a fellow New Brunswicker, spoke eloquently of the late Senator McGrand's service to this country: as a physician; as a councillor in Queen's County in the 1930s; as a provincial legislator in the 1930s, '40s and '50s; and of course, as Senator Murray pointed out, as a member of this chamber since 1955. As Senator McElman mentioned in February, Fred McGrand served the public for more than 60 years. Although he could have lived comfortably and successfully by devoting his time to his medical practice, Fred McGrand could not deny a call to serve his fellow men, not only as a doctor but also as a legislator.

What made the late Senator McGrand special was that, through his participation in the political system, he consistently attempted to address the problems he encountered in his medical practice. That was evident during his eight years as New Brunswick's Minister of Health and Social Services. It was just as evident upon his call to the Senate.

In his maiden speech on May 3, 1956 on an inquiry launched by Senator Croll on the penal system, Fred McGrand laid the groundwork for the 1980 report of the Standing Senate Committee on Health, Welfare and Science, entitled "Child at Risk". In that maiden speech more than 30 years ago, Senator McGrand inquired into the causes of crime, wondered aloud about the effect of childhood influences, spoke of "parental delinquency, ignorance, neglect, lack of understanding", and, decades before it became a fashionable subject, warned of the effect on children of violence on television.

When "Child at Risk" entered the public domain in 1980, it was seen as fresh, innovative, and perhaps even radical. But the fact of the matter is that in large measure it had its roots in the concerns that Fred McGrand was attempting to address at least 25 years earlier. That is the mark of a true visionary—a pioneer. Though many members of this chamber participated in the hearings of that committee, though many worked on the report itself, all of us recognized that "Child at Risk" was Fred McGrand's creation, and in a very real sense it was a report that was decades in the making.

In his maiden speech, Senator McGrand stated:

> All happiness has its roots in kindness.

The kindness that Frederic Addison McGrand extended over his years as a physician and legislator touched and brought happiness to countless Canadians.

Hon. Senators: Hear, hear!

Hon. David A. Croll: Honourable senators, I wish to associate myself with the splendid tributes that have been paid by the Leader of the Opposition and the Leader of the Government in the Senate.

In 1955, the government decided to do something about the Senate, which then had been dormant for too long. They

appointed Donald Cameron, Harold Connolly, Elsie Inman, Donald Smith, Hartland Molson, Fred McGrand and me, and they told us to get over here and do our stuff. That was 33 years ago, in our younger days.

Senators Harold Connolly, Smith, McGrand and I had considerable political experience. As a group, we began to give the Senate new life by invigorating it and beginning independent studies.

Foremost among us was Fred McGrand. He had a social sense that was unmatched in the Senate. We had grown up with him when he was Minister of Health and Welfare in New Brunswick; because of his lengthy term in office he understood the problems of people.

• (1410)

Senator McGrand was a compassionate and caring man. It must never be forgotten that he was the driving force behind the Senate report entitled "Child at Risk", a study about childhood experiences as causes of criminal behaviour in adult life. He paid particular attention to children and to disabled people. He was a member of the Special Committee of the Senate on Poverty; he was a member of the Special Committee of the Senate on Aging; and he was a member of the Special Committee of the Senate on Retirement Age Policies. Moreover, when Senator McGrand was a member of a committee he attended its meetings, he did the necessary work and prepared himself for the next day.

Honourable senators, 93 years, even by my calculation, is a long time. Senator McGrand's was a lifetime of service. He spent 32 consecutive years in the Senate. I am told that he was one of the last doctors to use a horse and buggy to make rural house calls. He brought to the Senate qualities of compassion and dedication to humanity which enriched his political life. He has been referred to as a working senator and as a trail-blazing senator. Both appellations fit him well. Senator McGrand lived a distinguished life, with grace. I extend to his family my sincere sympathy.

Hon. Senators: Hear, hear!

Hon. Hartland de M. Molson: Honourable senators, I should also like to add a few words of tribute to the late Senator McGrand. I came to the Senate on the same day as 12 others—the largest group that had ever been appointed at one time to the Senate. Those appointments were made by the Honourable Louis St. Laurent. It was an interesting group in that, as Senator Croll has said, it made some changes. The group included one Progressive Conservative who was a former member of the House of Commons, John T. Hackett. It included one senator from Moncton, Calixte Savoie, who listed himself as having no political affiliation. The group also included me, and I was listed as an independent. I do not think there had ever been such a mixed bag appointed to the Senate at any time before that, quite apart from its size.

Senator McGrand, as we all know, made a vast contribution to this chamber. He was one of the quiet ones. He did not often make his presence known, but when he did he showed his devotion to humanity, to the country and, particularly, to children. He was a courteous and a generous, unselfish man. In his 32 years in this chamber he made a great contribution not only to this chamber but to his country. We shall all miss him very much.

I should like to extend my sympathy to his wife and daughter.

Hon. William J. Petten: Honourable senators, I should like to associate myself with the remarks of those who have spoken in paying tribute to the late Senator Fred McGrand.

I first met Senator McGrand when I took my seat in this place in 1968. Over the years I came to know him as a fine, Christian gentleman. We resided in the same neighbourhood for some 15 years. On many occasions during the drive from Parliament Hill to his home we would have spirited discussions, from which I benefited greatly.

As has been stated, he was well-known and highly respected not only in his native province of New Brunswick but in all of Canada and, after the publication of his report entitled "Child at Risk", in many countries of the world. I say "his report" because, in our drives back and forth between his home and the Hill, he had discussed with me for many years his ambition to have a commitee study this subject. I am not taking away from the others associated with the committee, but I think it should be called "his report".

In his passing, Canada has lost one of its most outstanding sons. Those of us who knew Senator McGrand will remember him as a dedicated and conscientious member of this chamber. I wish to express my most sincere sympathy to his wife May, his daughter Doris, his sister Inez, and his grandsons.

Hon. Charles McElman: Honourable senators, I too wish to associate myself with the remarks that have been made in tribute to the late Fred McGrand. As the Leader of the Government has said, it was only seven months ago that we spoke in this chamber in paying tribute to Fred McGrand on the occasion of his retirement from the Senate. We spoke with admiration of his approximately 60 years of public service to the people of Canada, particularly his service to the people of New Brunswick as a municipal councillor and warden, as a long-time member of the provincial legislature, as Speaker of that legislature, as provincial Minister of Health and Social Services, and as a most active and responsible member of the Senate of Canada.

Senator McGrand was the last surviving member of the cabinet of the McNair administration in New Brunswick. That recalls to one's mind that era. As a side note, I might say that another distinguished and highly respected member of that cabinet was the late Honourable W. Stafford Anderson, who was a very close friend of Senator McGrand's and the father of our colleague, Senator Margaret Anderson.

In all of those capacities, Fred McGrand served with dedication, honour and integrity of the highest order. As a practising medical doctor in rural New Brunswick he earned the lasting respect and appreciation of countless citizens of that province. I suggest that it should not be our purpose today to speak with sadness, but rather in celebration—with joy and thanksgiv-

ing—of the lifetime of service of Fred McGrand. We, in the Senate, were privileged to have him with us, to benefit from his hard work and his years of valued knowledge and experience.

I am sure those many senators who came to know Fred McGrand well appreciated his fine and dry sense of humour. I should like to read to you one brief paragraph from a letter I received from him following the tributes that were paid to him at the time of his retirement in February. Those who knew Fred McGrand well would appreciate the humour of it. He was speaking of the tributes that had been paid here. In his letter addressed to me he said:

• (1420)

> Thank you very much for the great tribute you paid to me in the Senate at the time of my retirement. Most people pass away and never get to hear how great they really were!

That is typical of the dry humour of Fred McGrand that I came to appreciate so much.

As a fellow New Brunswicker, I, too, should like to extend condolences to Mrs. McGrand and the other members of the family in their bereavement.

[*Translation*]

DISTINGUISHED VISITORS IN GALLERY

REPRESENTATIVES OF L'ASSOCIATION INTERNATIONALE DES PARLEMENTAIRES DE LANGUE FRANÇAISE

The Hon. the Speaker *pro tempore:* Honourable senators, before continuing the proceedings, I would like to draw your attention to the presence in our Gallery of representatives of L'Association internationale des parlementaires de langue française who are having a study session here in Ottawa. The delegates visiting us in the Senate represent twenty-five parliaments in twenty-five countries. They are meeting in Ottawa to discuss the problems of their association.

Allow me to introduce the members of the executive and my collaborators: Mr. Daouda Sow, speaker of the National Assembly of Senegal, Mr. Jacques Legendre of the National Assembly of France, who is Parliamentary Secretary General of our Association, Mr. Pierre Lorrain, speaker of the National Assembly of Quebec, Mr. André Baudson representing Belgium's French-speaking community and President Kalume, Speaker of the Executive Council of Zaire.

My dear colleagues, welcome to Ottawa.

Hon. Jacques Flynn: Honourable senators, with the delegates of the *ad hoc* committee of L'Association internationale des parlementaires de langue française, I had the privilege of spending two days in the beautiful region of Charlevoix. Our Speaker probably selected the location himself as our initial meeting place.

I will also be with them during their current meetings in which they are analyzing the follow-up of the Francophone Summit in Quebec City. I would also like to say how delighted we are to have them with us, and I wish them every success.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I shall, if I may, emphasize what was said by our Speaker and by our colleague, Senator Flynn. I want to thank them for very appropriately drawing our attention to the presence of parliamentarians from the "Francophonie", the presence of fellow parliamentarians, and especially colleagues, from twenty-five countries. We are truly honoured by the presence of such a distinguished group.

INDIAN ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Arthur Tremblay, Chairman of the Standing Committee on Social Affairs, Science and Technology, presented the following report:

Wednesday, September 7, 1988

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

TWENTY-FOURTH REPORT

Your Committee, to which was referred Bill C-150, An Act to amend the Indian Act (death rules), has, in obedience to the Order of Reference of Wednesday, August 31, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

ARTHUR TREMBLAY
Chairman

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

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

[*English*]

ENERGY AND NATURAL RESOURCES

TWELFTH REPORT OF COMMITTEE, ENTITLED "NATURAL GAS DEREGULATION AND MARKETING", PRESENTED

Hon. Earl A. Hastings: Honourable senators, I have the honour to present the twelfth report of the Standing Senate Committee on Energy and Natural Resources, respecting the production and use of natural gas in Canada, with particular reference to natural gas deregulation, entitled "Natural Gas Deregulation and Marketing".

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

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

LOBBYISTS REGISTRATION BILL

REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Nathan Nurgitz: Honourable senators, I have the honour to present the thirty-second report of the Standing Senate Committee on Legal and Constitutional Affairs respecting Bill C-82, an act respecting the registration of lobbyists.

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

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

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 4283.*)

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

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

● (1430)

AGRICULTURE AND FORESTRY

TWELFTH REPORT OF COMMITTEE, ENTITLED "CANADIAN REGULATORY PROCESS FOR PESTICIDES", PRESENTED AND PRINTED AS APPENDIX

Hon. Daniel Hays: Honourable senators, the Standing Senate Committee on Agriculture and Forestry has the honour to present its twelfth report on the Canadian regulatory process for pesticides.

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

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

Hon. Senators: Agreed.

(*For text of report, see Appendix "B", p. 4284.*)

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

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

QUESTION PERIOD

BUSINESS OF THE SENATE

Hon. Jacques Flynn: Honourable senators, I have a question for the Deputy Leader of the Government.

[The Hon. the Speaker.]

Some Hon. Senators: Ha, ha!

An Hon. Senator: That's a switch.

Senator Flynn: I don't know how senators can find the question funny before I put it. It is assumed that I will show my usual sense of humour, but that may not be the case.

In view of the fact that our sittings this week have begun on Wednesday, that it appears we have a full order paper, and especially in view of the fact that the debate on the Canada-United States Free Trade Agreement will begin today, can the deputy leader tell us whether we will be sitting on Friday of this week and what the program will be for next week?

It is my understanding that the Leader of the Government, the sponsor of the bill dealing with free trade, will speak today and that he will be followed by the Leader of the Opposition, whose speech everyone is anticipating with great impatience.

Can the Deputy Leader of the Government assist us by telling us where we stand and when we can expect to end our anxiety?

Senator Perrault: You should be anxious over there.

Some Hon. Senators: Hear, hear!

Senator Frith: So anxious and impatient that Senator Doody could not give you an appointment to answer the question personally.

Senator Roblin: We thought you would like to hear the answer.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I fully respect the intent of Senator Flynn's question. He wants some idea of what the order of business will be for this week, next week and beyond, if possible.

We have a number of items on the order paper. We will have second reading of at least three bills, one of which deals with the Free Trade Agreement. The other side and I have not discussed plans for sitting on that debate. I understand that quite a few senators on this side are anxious to participate, and I am sure there are quite a few on the other side. It may well be necessary to sit on Friday and Monday to move the debate along. That will depend on how many speakers there are each day and how quickly we want to get the bill into committee. Obviously, on this side we are quite anxious to see it move along. It has been the subject of intense debate all across the country for some time. It has been in the other place for some time. The agreement has been before the Standing Senate Committee on Foreign Affairs for quite a long time and has received extensive study there. We tried to have the bill pre-studied as well, but we encountered a certain lack of enthusiasm for that prospect from those on the other side of the chamber.

So we shall have to decide how much time the collective Senate thinks it necessary to expend on second reading. To that end, I look forward to having a conversation with Senator Frith, my counterpart, so that we can make that decision. As of now, it is entirely open. It may well be that we shall have to

sit on Friday, Monday and beyond in order to complete second reading of this bill.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, although this is Question Period, may I make a comment? I do want to make it clear and recall to my colleagues in the Senate that two or three summers ago we made it clear—and we want to make it clear now—that although we on this side have a majority that means we can determine adjournments of the Senate, nevertheless, as long as the government has business we shall be here. If that requires sitting on Mondays and Fridays, we shall do so.

I think it would be prudent for Senator Doody and me to discuss this, as he has suggested, to ensure that there are speakers who will speak on Mondays and Fridays. If there is business before the Senate and senators wish to speak on a Monday, Tuesday, Wednesday, Thursday or Friday, we believe we should be here.

Senator Flynn: The problem with arranging for speakers on Mondays and Fridays is that it depends on what the Leader of the Opposition is going to say. I hope that will be this afternoon.

Senator Petten: Question!

Senator Flynn: I am wondering if the deputy leader has been told whether the Leader of the Opposition is going to speak this afternoon. If his speech is the one that he has given outside this chamber, then it seems to me that the debate will be rather useless. In any case, does the Deputy Leader of the Government know if we shall hear the position of the opposition this afternoon?

Senator Guay: Make sure you are present when he speaks!

Senator Flynn: As usual.

Senator Doody: I am quite flattered, but I cannot answer for the honourable gentleman opposite. I certainly look forward to hearing from him this afternoon, but I have no knowledge of whether or not I shall have that pleasure.

Senator Flynn: I hope he has!

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, if I may answer the question—

Some Hon. Senators: Hear, hear!

Senator MacEachen: I have never known Senator Flynn to wait with impatience for me to speak, but I can tell him that I shall not be speaking today.

Senator Flynn: Why not?

Senator MacEachen: I intend to speak next week—

Senator Flynn: Next week!

Senator MacEachen: —after all of the Conservative senators about whom we have read in the press have spoken and we have some sense of what it is that it is required to rebut, if anything.

Senator Flynn: Is that serious?

Senator MacEachen: Of course it is.

Senator Flynn: Are you laughing at us?

Senator MacEachen: No, I am not laughing.

Senator Flynn: Are you laughing at the Senate?

Senator Olson: No, just you.

Senator Flynn: Just me?

Senator Frith: So far.

Senator Olson: It is not a serious question. That is why we are laughing.

Senator Flynn: I am not speaking about my question; I am speaking about the comments made. You should have understood that. You were better a few years ago. In any event, I do not think Senator MacEachen is serious when he says he will adjourn the debate until next week.

Senator Frith: He did not say that.

Senator Flynn: He said that he will wait to hear what the speakers from our side have to say. What is important is to know where the opposition stands.

● (1440)

Senator Steuart: You'll find out.

Senator Flynn: When shall we find out? That is the question I have in my mind. If Senator MacEachen is simply going to remain silent and offer a filibuster of silence, I think we should know and I think we should act accordingly.

Senator Frith: Well, honourable senators, we have no intention of filibustering.

Senator Flynn: By silence.

Senator Frith: By silence or any form thereof. I have discussed it with Senator Doody.

Senator Flynn: When?

Senator Frith: Last week. We have agreed that we would—

Senator Barootes: Delay, delay, delay!

Senator Frith: Aren't you prepared to accept the responsibility for that nattering with which you just came forward, Senator Barootes?

Senator Barootes: I made my comment.

Senator Frith: You made your comment, yes, with your customary eloquence and articulation.

Senator Doody and I discussed it. We will deal with second reading debate as we would with any bill, certainly any important bill such as this is. We expect to have speeches every day, probably one on each side each day, at least—

Some Hon. Senators: Oh, oh!

Senator Frith: —and deal with the other business that Senator Doody has referred to, but I can say that there will be no undue delay, no filibustering. We mean to participate in this debate on second reading until all—

Senator Murray: That is not what you said on Thursday in this house.

Senator Frith: What did I say on Thursday?

Senator Murray: I will read it back to you.

Senator Frith: Please do. I am glad of this opportunity. If I said anything last Thursday that created the impression that there would be anything but normal debate at second reading, with speakers—

Senator Flynn: Blocking.

Senator Frith: —on each side, then that was a wrong impression, because we intend to put up speakers. I mean to discuss this with Senator Doody. Senator Petten will discuss with his counterpart, Senator Phillips, as to the order of speakers. We are developing a list. I understand the government has a list. I hate to disappoint the Leader of the Government or his impatient colleagues, but we have no intention of filibustering the debate on this bill.

Some Hon. Senators: Hear, hear!

Senator Flynn: That is not what you said.

Senator Steuart: All the shouting is from that side.

Hon. Duff Roblin: Perhaps I am not entirely in accord with parliamentary procedure as conducted in the other place—

Senator Frith: None of us has been, Duff. That's all right.

Senator Roblin: I am sure that I have been within the ambit permitted to speakers in this house. I must say that I am anxious to know from the opposition who is going to speak for them. I recall that over the past few months—

Senator Frith: As many as wish to.

Senator Roblin: —there has been a wide variety of statements by the Leader of the Opposition and his colleague in the other place as to what the Liberal Party in the Senate is going to do with this bill. The reason I am anxious to hear—

Senator Frith: Why don't we get at the bill? If you want to talk about not getting at it or getting at it, why don't we deal with it?

Senator Olson: What is the question?

Senator Roblin: Are you finished?

Senator Frith: No, only temporarily.

Senator Roblin: Restrain yourself temporarily, for a minute or two.

Senator Frith: I give no undertaking to do that.

Senator Roblin: The country has an interest in what is going on in this chamber today.

Senator Frith: Let's get at it!

Senator Roblin: The interest of the country, I suggest, is to know what the Liberal Party in the Senate is going to do with respect to this bill.

Some Hon. Senators: Hear, hear!

Senator Steuart: Why don't you sit down and let us get at it?

[Senator Murray.]

Senator Flynn: You said you wanted to adjourn the debate!

Senator Roblin: We will get at it when the Leader of the Opposition deigns to tell us what his policy is going to be. It seems to me that we shall be in a very anomalous situation and questions will certainly be raised in the minds of the general public as to what is going on in this house, when we find that the most important bill we are to consider, according to members opposite, which will be introduced this afternoon by the Leader of the Government, will not be responded to, at least in the first instance, by the Leader of the Opposition. Who, then, is going to speak and tell us what the Liberals in this house are going to do? I think the country is entitled to know that.

Some Hon. Senators: Order, order!

Senator Roblin: And I say to my honourable friend that he should speak.

Senator Molgat: Order, order! Come on!

Senator Olson: What kind of a bluff is this?

Senator Flynn: Is that all you have to say?

The Hon. the Speaker *pro tempore:* Order, order!

AGRICULTURE

EFFECT OF ACID RAIN ON MAPLE SYRUP PRODUCTION IN QUEBEC—GOVERNMENT ACTION

Hon. Dan Hays: Honourable senators, I have a genuine question.

Senator Frith: Start again, Dan. I just want to be sure we hear what you are saying.

Senator Hays: Honourable senators, I should like to ask a question of the Leader of the Government.

Some Hon. Senators: Hear, hear!

Senator Hays: This arises out of a meeting this morning of the Standing Senate Committee on Agriculture and Forestry. The witness was Mr. Michael Herman, a maple syrup producer in the province of Quebec and an activist for that industry. I must say that we owe thanks to Senators Spivak and Fairbairn for ensuring that this witness was given the opportunity to be heard by the committee, because he informed me for the first time of the serious and grave situation faced by maple syrup producers in the province of Quebec as a consequence of acid rain. If I understand correctly from the brief hearing we had, there is little indication that positive action will be taken to address this serious problem.

My question to the Leader of the Government is: Are there any plans for an announcement by the federal government to deal with this serious problem?

To give honourable senators some idea of the magnitude of the problem, we were told that in Quebec alone 32 million pounds of maple syrup were produced last year and that something has to be done immediately, preferably this year. In fact, the witness indicated that it is imperative that it be done

this year. He said that they need a program worth some $30 million to provide fertilizer for the trees in association with a base of some kind, such as limestone, to neutralize the effects of the acid. Something must be done to avoid much worse damage to that industry.

My question, then, is: Are there any planned announcements? If that is not the case, are there ongoing discussions with the Province of Quebec and other provincial governments involved that we can expect will result in such an announcement in the near future?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, if the honourable senator is suggesting that not much action has been taken domestically on the problem of acid rain, he is incorrect. Over the past four years the government has reached agreements with a number of Canadian provinces with a view to controlling and reducing emissions according to a set timetable. The next step will be to negotiate a treaty with our neighbours to the south, who are responsible for so much of this. I am confident that we will be able to do this—even more confident in view of the forthright positions being taken now by the two candidates for the presidency of the United States, Governor Dukakis and Vice-President Bush.

Senator Hays: Honourable senators, I had hoped the Leader of the Government would indicate that he would find out whether an announcement is planned and whether there are ongoing discussions which he could tell us about in light of the announcement by Mr. Bush and, of course, the position of Mr. Dukakis, who comes from a state much affected by acid rain. I must say that until I heard the witness this morning I was generally in accord with the kind of answer the minister has just given us, that things are under way and that in due course we shall have some positive things to say about how we are going to deal with this problem. However, as a result of what I heard this morning I think the problem has an immediacy that makes it fair to ask this question at this time.

Is there something that you, Mr. Minister, can tell us may happen this year to deal with this serious symptom we now see and for the treatment of which we have some pretty good ideas? The fact of the matter is that something must be done this year. Will the Leader of the Government in the Senate indicate to me that he will at least look into this and, if there is no planned announcement, share with us whether or not there are ongoing discussions that might result in an early announcement for a program to deal with this problem this year?

• (1450)

Senator Murray: Honourable senators, I understand that, for reasons of its own, the Goverment of New Brunswick has recently imposed a moratorium on granting licences for maple sugar production. Discussions are going on. I think my honourable friend is asking whether a program of assistance is being developed for maple sugar producers in view of the effects of acid rain. That is a matter I would have to inquire into and report back on at a later date.

ENERGY

TAR SANDS PROCESSING PLANT—FORT McMURRAY, ALBERTA—GOVERNMENT PARTICIPATION

Hon. H.A. Olson: Honourable senators, in view of the fact that the government has made a number of other announcements regarding such things as the upgrader and Hibernia, can the Leader of the Government in the Senate advise us whether or not the government is now giving active and serious consideration to making an announcement about its participation in the so-called OSLO project near Fort McMurray, Alberta, which is a tar sands processing plant?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the last information I had on this matter was that federal and Alberta officials were meeting with the OSLO sponsors to present their latest financing proposal for the plant. I understand that the sponsors are now reviewing this proposal and are expected to respond within the next 10 days or so. Until they have done so, I think it would be inappropriate for me to comment on the negotiations.

Senator Olson: Honourable senators, the Leader of the Government in the Senate has laid it out in a slightly different way from what I was led to understand. Has the government put forward an alternative proposal to the sponsors? I think the sponsors have put an alternative proposal to the federal government and are awaiting an announcement of approval from them. If it is the other way around, that is a new twist.

Senator Murray: Honourable senators, my understanding as of August 30 is that another financing proposal was developed and presented by the governments concerned and that the sponsors are now reviewing this proposal.

Senator Olson: When you say "by the governments concerned", was there agreement between the two levels of government on an alternative proposal that was put to the private sector sponsors?

Senator Murray: Honourable senators, there must have been. The proposal was put to the sponsors, as I understand it, jointly by the Government of Alberta and ourselves.

TRANSPORT

NORTHUMBERLAND STRAIT—PUBLIC HEARINGS ON IMPACT ON FISHERIES OF PROPOSED FIXED CROSSING

Hon. John B. Stewart: Honourable senators, on June 14 the government announced that as a result of its invitation proposals had been received concerning the construction of a fixed crossing in Northumberland Strait between Prince Edward Island and New Brunswick. It has been almost three months since those proposals were received. I should like to ask the Leader of the Government in the Senate whether public hearings on the environmental implications of this proposed fixed crossing for the fishing industry in Northumberland Strait will be initiated by the government before the govern-

ment enters into a contract for the construction of any fixed crossing.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I do not know the answer to that question.

Senator Stewart: Honourable senators, would it be unreasonable to ask the Leader of the Government in the Senate to obtain an answer? This is a matter of great concern to the fishermen of both Prince Edward Island and the mainland. If there are to be public hearings, an announcement to that effect would help to alleviate their great concern. I urge the minister to give consideration to obtaining that information.

Senator Murray: I shall do so, honourable senators.

NORTHUMBERLAND STRAIT—PROPOSED FIXED CROSSING—NUMBER AND NATURE OF PROPOSALS—ANNOUNCEMENT BY PRIME MINISTER

Hon. M. Lorne Bonnell: I have a supplementary question, honourable senators, regarding the fixed link. Is the Leader of the Government in the Senate able to say how many proposals have been presented so far to the government? I believe there have been six or seven—or has there been only one proposal for a tunnel, and is the government considering the tunnel at all?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I believe I placed that information before the Senate on a previous occasion. I shall make inquiries to ascertain what further information may now be available.

Senator Bonnell: I have a further question, honourable senators. The Prime Minister of Canada has gone to the Northwest Territories and has made an announcement to our native peoples. I wonder if he might come to the cradle of Confederation and make an announcement within a few days about the fixed link, because some years ago, I believe in 1958 or 1968, our good friend of the Maritimes, John George Diefenbaker, travelled there and made an announcement, and we are still waiting for the results of that announcement to take place. I am wondering if we might have another announcement within a few days in Prince Edward Island concerning the fixed link.

Senator Murray: Honourable senators, I shall convey Senator Bonnell's invitation to the Prime Minister.

AGRICULTURE

EFFECT OF ACID RAIN ON MAPLE SYRUP PRODUCTION—GOVERNMENT ACTION

Hon. M. Lorne Bonnell: I have one supplementary question to that of Senator Hays concerning the maple syrup industry in Canada. Is the Leader of the Government in the Senate able to say whether, in fact, the Government of Canada is considering a program, either jointly with the provinces or federally, to supply fertilizer or lime to the maple sugar industry paid for either wholly by the federal government or on a cost-shared basis with the provinces to be used by the industry at its own expense?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no idea whether such a program is now being considered. As the minister responsible for the Atlantic Canada Opportunities Agency, I can tell the honourable senator that there has been a phenomenal increase in applications to ACOA for assistance from this sector. This is partly, I believe, because of the dreadful effects of acid rain on industry in Quebec and Ontario. I can also tell the honourable senator that ACOA has responded very positively to this interest on the part of maple sugar producers and potential producers in our region.

Senator Bonnell: Honourable senators, that is fine for the maple sugar producers who can apply under ACOA, but the greatest maple sugar producing province of this country is Quebec. As I understand it, within five years that industry will have been destroyed, and there will be no more maple sugar industry left in the province of Quebec unless something is done now.

Many of the maple sugar producers have gone out of business. Fifty per cent of their trees are now dead or dying, and the production of the other half of the producers is down 50 per cent. It is a serious industry problem in the province of Quebec. Is there any help for them through some other program like ACOA?

Senator Murray: Honourable senators, the question that the honourable senator put was whether there is a federal or federal-provincial program being developed or considered to supply fertilizer to maple sugar producers. As I have told him, I do not know the answer to that question. I shall inquire as to what may be under consideration at this time.

THE ENVIRONMENT

GOVERNMENT INVENTORY OF PCB STORAGE SITES AND GUIDELINES FOR STORAGE AND DISPOSAL OF PCBs

Hon. Stanley Haidasz: Honourable senators, I should like to ask the Leader of the Government in the Senate whether the federal government has an inventory of all PCB sites used for storage and whether it truly has a program of national guidelines or standards for the storage and disposal of PCBs.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the answer to the second part of the question is yes. The answer to the first part of the question is that I believe a news conference was to have been held at 2:30 this afternoon involving, among others, the federal Minister of the Environment, Mr. McMillan. I have no doubt that he will have addressed that question at his news conference or, in any case, shortly thereafter.

Senator Frith: Addressed it or answered it?

Senator Murray: If there is further information the honourable senator requires, I shall make inquiries of my colleague.

• (1500)

Senator Haidasz: Honourable senators, would the Leader of the Government in the Senate please table for the record in the Senate the national guidelines or standards for the storage and disposal of PCBs?

Senator Murray: Yes, I shall do so, honourable senators.

ST-BASILE-LE-GRAND PCB STORAGE SITE—FINANCIAL ASSISTANCE FOR VICTIMS OF FIRE

Hon. Stanley Haidasz: Honourable senators, I have a supplementary question. Is the Government of Canada considering giving any financial assistance to the victims of the fire at the PCB storage facility in St-Basile-le-Grand?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I seem to recall that my colleagues in the Government of Quebec made available to the victims of that fire some assistance under the existing programs, such as disaster relief and that kind of thing. However, I shall obtain a prepared statement on that matter for my colleague as well.

TRANSPORT

SHIPMENT OF GRAIN THROUGH PORT OF CHURCHILL, MANITOBA

Hon. Joseph-Philippe Guay: Honourable senators, last week the Deputy Leader of the Government in the Senate answered a question of mine and a question of Senator Molgat's pertaining to the shipment of grain through the Port of Churchill. His answer stated that the minister responsible for the Wheat Board had some doubts as to the possibility of grain being shipped through that port.

Honourable senators, we happen to know that it is very beneficial, economically, to western farmers to ship grain through the Port of Churchill. I therefore repeat my question of last Wednesday, which is: Would the Leader of the Government in the Senate make a representation to the minister responsible for the Wheat Board, at the cabinet level, respecting the possibility of having some grain shipped through the Port of Churchill? I realize the answer I received last week was that, because this may be a weak crop year, there may not be any grain available. Notwithstanding that, I hope some consideration will be given to shipping grain through the Port of Churchill, thereby benefiting western farmers.

I therefore reiterate my question of last week and ask the Leader of the Government in the Senate whether or not he has yet had time to make representations to the minister responsible for the Wheat Board, on behalf of both Manitoba and Saskatchewan in this matter.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have conveyed Senator Guay's representations to my colleague, Mr. Mayer, who reminds me, of course, that the minister does not direct the Canadian Wheat Board on matters of this kind.

Senator Guay: I must say to the Honourable Leader of the Government in the Senate that, while the minister responsible for the Wheat Board does not direct the Wheat Board, he can make strong suggestions to that board pertaining to grain deliveries being made to Churchill. I happen to know that he is the minister who names the members of that board. In fact, he has a great deal to say about who will and who will not serve on that board. Indeed, some new members will shortly be appointed to that board and I happen to know who they are, although I do not intend to name anyone at this time.

I am sure, therefore, that the Leader of the Government in the Senate, as a cabinet colleague of the minister responsible for the Wheat Board, could put in a good word for the Port of Churchill in the interests of having some grain shipped through that port.

Senator Murray: Honourable senators, Mr. Mayer can do what I have done, which is to pass on Senator Guay's representations to those responsible.

DELAYED ANSWER TO ORAL QUESTION

CANADA-UNITED STATES RELATIONS

TREATMENT OF CANADIAN CIRCUIT BOARDS BY UNITED STATES CUSTOMS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, a few days ago Senator Gigantès requested an answer to his question of July 5 relative to the treatment of Canadian circuit boards by United States customs. I would say to the honourable senator that an answer to that question was given on August 16 and in the *Debates of the Senate* of that date, Senator Gigantès will find the written answer to his question.

Hon. Philippe Deane Gigantès: Thank you, sir.

CRIMINAL CODE
FOOD AND DRUGS ACT
NARCOTIC CONTROL ACT

BILL TO AMEND—THIRD READING

Hon. Nathan Nurgitz moved the third reading of Bill C-61, to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act.

Motion agreed to and bill read third time and passed.

TAX COURT OF CANADA ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Kelly, seconded by the Honourable Senator Bal-

four, for the second reading of the Bill C-146, An Act to amend the Tax Court of Canada Act and other Acts in consequence thereof.—(*Honourable Senator Stanbury*).

Hon. Richard J. Stanbury: Honourable senators, Bill C-146, to amend the Tax Court of Canada Act, is an important bill, and, in my opinion, Senator Kelly, in his speech, did an excellent job of explaining the concept behind the bill and the implementation of that concept. I do not intend to speak at any length about this measure, because I assume the bill will be referred to committee. However, there are a number of matters which I think should be drawn to the attention of honourable senators.

Bill C-146 calls for a division of tax jurisdiction between informal, or lesser tax cases, and more important cases involving larger amounts. Concern has been expressed with respect to the shifting of the 18 judges attached to that court between the hearings of formal and informal applications. It is not at all clear from the legislation how the work will be assigned to those judges, and I think that matter needs to be examined carefully by the committee.

It is said that this court is expected to become Canada's centre of expertise in the field of income tax appeals. Of course, the decisions of the court on informal cases will not create any precedents, but the appeals from those cases will go to the Federal Court of Appeal. With respect to the more formal procedure, I assume that the decisions of the Tax Court will indeed create precedents, and again the appeals from those cases will be heard by the Federal Court of Appeal. I think it needs to be clarified how the Tax Court will become the centre of expertise, if all appeals from that court go to the Federal Court of Canada and, further, if the decisions in approximately 70 per cent of the cases heard by that court do not create precedents for future decisions.

Another matter I think needs to be explored is the fact that the Attorney General is the only one with the right to invoke the formal or more expensive procedure in test cases. Honourable senators, that is understandable if the case affects other taxpayers. However, where the case is one affecting the assessment of a taxpayer in future years, then surely it should be possible for that taxpayer to invoke the formal procedure and to appeal to the Federal Court of Canada.

Another matter that needs to be clarified was raised by Senator Frith and answered briefly by Senator Kelly; that is the question of costs. Senator Kelly's explanation of the matter sounded good to me; it sounded as though the government intended to pay the costs in any event. However, I would refer honourable senators to subclause 18.11(6) of the bill:

> (6) The Court may, on making an order under subsection (1), other than an order granting an application pursuant to subsection (2) or (3), order that all reasonable and proper costs of the appellant be borne by Her Majesty in right of Canada.

● (1510)

Clause 18.26 deals with the costs of appeals, and says in part:

> . . . or increases the amount of loss in issue, as the case may be, by more than one half, the Court may award costs to the appellant in accordance with the rules of Court.

I would not want honourable senators to go away with the thought that the government is going to pay the costs in all cases, as perhaps one might have assumed from the discussion on this bill at the last sitting of the Senate.

I assume that Senator Kelly will move that the bill go to the Senate Standing Committee on Legal and Constitutional Affairs.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Kelly, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations) moved the second reading of Bill C-130, to implement the Free Trade Agreement between Canada and the United States of America.

He said: Honourable senators—

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

Senator Frith: Not yet!

Senator Murray: Honourable senators, the Canada-United States Free Trade Agreement, which Bill C-130 would implement, is one of the definitive achievements of the Mulroney government in its first mandate. Free trade, tax reform, constitutional reform, a national child care program, new regional development policies, strengthened defence and international commitments are the hallmarks of our first mandate. They give effect to the mandate for national reconciliation, economic renewal, social justice and constructive internationalism that Brian Mulroney sought and received from the Canadian voters in September of 1984.

Each of these initiatives—free trade, tax reform, constitutional reform, child care, regional development, national defence—is part of a whole. Together they provide the basic policy foundation which will let the Canadian people master rapidly changing circumstances in the world and build the kind of Canadian society that they want for themselves and their children.

Five months ago, speaking of this Free Trade Agreement between Canada and the United States, Professor Richard Lipsey and Mr. Robert York, on behalf of the C.D. Howe Institute, assessed the agreement in these words:

> Looked at from overseas—from the aspect of those groups of countries that have struggled over the past three decades to get as much as possible out of their numerous regional trade-liberalizing pacts—the Agreement is a stunning achievement. Canadians worry that it did not achieve enough. To have achieved two-thirds of what the Canadian and U.S. negotiators accomplished in 18 short months would have been regarded as pathbreaking by the negotiators of virtually all other regional trade-liberalizing arrangements. As late as the summer of 1987, the European trade expert Victoria Curzon Price was warning Canada's negotiators that they might be trying for too much. In her view, they certainly were trying for far more trade liberalization than any other regional agreement had achieved over decades, let alone in the first round of negotiations. Yet, by October of that year, we knew that they had succeeded in doing what Curzon Price worried might be beyond their capacities.
>
> Canada's negotiators possibly could have done even more. By the world's standards, however, to turn down the Agreement on the grounds that it does not do enough to increase market access or make that access more secure is to let the best be the enemy of the very good.

Honourable senators, I intend to speak to this legislation, Bill C-130, to the agreement it implements, and, finally, I wish to address the role of the Senate in the Canadian parliamentary system and our duty, as I see it, on this bill.

When it comes to trade policy, the Senate, of course, is in very familiar territory. In 1972 the Standing Senate Committee on Foreign Affairs presented a report on our trade with Japan. In 1973 the committee presented a report on trade with the European Economic Community. In 1978 and again in 1982 the committee on Foreign Affairs presented reports on Canada's trade relations with the United States.

In preparing its 1978 report, the committee held 44 hearings and heard 110 witnesses. In preparing its 1982 report the committee held 23 hearings and heard 54 witnesses. As well, it travelled to Washington and conducted meetings there involving 31 individuals. In short, the committee undertook its work with the diligence and thoroughness for which the Foreign Affairs Committee is known and which reflects the finest traditions of this chamber.

In its 1978 report the committee recommended that Canadians consider seriously the option of bilateral free trade with the United States. Upon further study and reflection, the committee, in its 1982 recommendations, stated:

> The committee therefore reaffirms the conclusion reached in (its 1978) report that the desired restructuring, growth and competitiveness of Canadian industry can best be achieved by the negotiation of a bilateral Free Trade Agreement with the United States.

I remind honourable senators that the committee's concern then was for a world-class industrial base in this country and a world-class competitive Canadian economy. The committee recognized then, as the government recognizes now, that that can only be achieved by access to a larger market, and that that market is next door to us.

I also want to remind the Senate that the committee—our Foreign Affairs Committee—specifically addressed the traditional Canadian concern about our sovereignty arising from Canada-U.S. free trade. The committee report reads as follows:

● (1520)

> The committee concludes that the widespread fears among Canadians that bilateral free trade with the United States would lead to an erosion of Canadian sovereignty or eventual political integration are based on misconceptions and a lack of facts as to what constitutes a free trade area.
>
> No one can deny that Canada's prosperity and standard of living are dependent to a very great extent on U.S. markets . . . but to jump from this to the conclusion that the removal of the remaining tariffs and non-tariff barriers would lead to political integration with the United States is totally unwarranted by the facts.

The committee went on to say:

> In the committee's opinion a far more potent threat to Canada's political and social strength would come from a continued weakening of its industrial performance and a decline in its economic stability in the face of the challenge of the 1980's and 1990's. It is precisely at the strengthening of the national fabric, both political and economic, that a Canada-U.S. free trade arrangement is aimed.

Honourable senators, happily, we still have with us quite a number of colleagues on the other side of the house who signed the Senate Foreign Affairs Committee reports in 1978 and again in 1982 recommending bilateral free trade with the United States and debunking the notion that there was any threat to our sovereignty implied in such an agreement. Happily, many of those senators opposite are still with us—

Senator Frith: "Happily"; who's happy?

Senator Murray: —and we look forward to hearing them in the course of this debate. Let me mention a few of them. Senator Croll, Senator Hastings, Senator Lang, Senator McElman, Senator Petten, Senator Riel, Senator Sparrow all signed the report of June 1978. As for the report of March 1982, which I signed along with colleagues, I see the names of distinguished senators such as Senator Bosa, now the acting chairman—

Some Hon. Senators: Hear, hear!

Senator Nurgitz: Good for you, Peter.

Senator Murray: —Senator Buckwold, Senator Graham, who is now the campaign chairman of the Liberal Party, Senator Haidasz—

Senator Nurgitz: I told you to stop writing your name, Stanley!

Senator Murray: —Senator Hicks, Senator Langlois, Senator McElman, Senator Molgat, Senator Molson, Senator Neiman, Senator Riel, Senator Rizzuto—

Some Hon. Senators: Hear, hear!

Senator Nurgitz: A great Canadian.

Senator Murray: —And Senator Thompson. The other senators who served included Senator Hastings, Senator Lang and Senator Stanbury.

Senator Haidasz: Who's left?

Senator Murray: Honourable senators, we look forward to hearing the views of the senators who signed those reports in 1978 and 1982 as to the agreement that is now before us.

I know that the Free Trade Agreement that was negotiated between—

Hon. Gildas Molgat: Honourable senators, I rise on a point of order. Could the honourable senator tell me to which report in 1982 he is referring when he claims that I signed my name? I do not recall signing any report dealing with trade matters.

Senator Murray: The honourable senator's name is on the report of the committee of 1982. Is he now disassociating himself from it? Is he telling us that he does not endorse its—

Senator Molgat: I would have to see where my name appears, because I do not recall being a member of the Foreign Affairs Committee.

Senator Murray: Honourable senators, I apologize if I am mistaken, but I sent for a list of those whose names appear on the March 1982 report—it was volume 3, I believe—of the Standing Senate Committee on Foreign Affairs, and on that document appears the name of the honourable senator, so I am informed.

Honourable senators, I know that the Free Trade Agreement before us may not be precisely the agreement that the Foreign Affairs Committee might have designed in 1982. The former chairman, Senator van Roggen, can elucidate this point when he speaks, but the question he had to ask and other senators have to ask themselves and answer is whether the Free Trade Agreement that is now before us achieves the objectives that the committee had in mind. I do not want to anticipate Senator van Roggen's speech, and I trust he will take part in the debate, but we do have the benefit of an article that he wrote for the *Financial Post* of July 30. In that article Senator van Roggen wrote:

> Many of the attacks on the (Free Trade Agreement) are mischievous and motivated by partisan politics . . .

Senator Steuart: Shame!

Senator Murray:

> It is a pity that what is essentially an economic agreement has been so distorted by its critics. It would be a tragedy if the opportunity were lost to conclude an arrangement that offers such large benefits to Canada.

That is what the chairman of the Senate Foreign Affairs Committee has said on the matter.

[Senator Nurgitz.]

Honourable senators, I have just received an answer to Senator Molgat's question. It takes the form of a photostat copy of page 2 of volume 3 of the committee report of 1982 and, indeed, I can confirm that under "Membership of the Committee" the honourable senator's name, "Molgat, Gildas L.", does appear.

Senator Molgat: And I signed the report?

Senator Murray: I hope my honourable friend signed it. His name is there. Is he suggesting that some staffer is forging his signature?

Senator Molgat: No.

Senator Murray: Honourable senators, in November 1982 the government of Prime Minister Trudeau appointed a Royal Commission on the Economic Union and Development Prospects for Canada, a Royal Commission headed, as the Senate knows, by the Honourable Donald S. Macdonald. That royal commission reported in August 1985 after the most exhaustive review of Canada's social, economic and political fabric ever carried out. The royal commission concluded that:

> Canada's economic growth is critically dependent on secure access to foreign markets. Our most important market is the United States, which now takes up to three quarters of our exports. More, better and more secure access to the U.S. market represents a basic requirement, while denial of that access is an ever-present threat. We are extremely vulnerable to any strengthening of U.S. protectionism. Early bilateral negotiations with the United States could provide opportunities for the two countries to negotiate reduction or elimination of tariff and other barriers to cross-border trade, at a pace and on a scale not likely to be achieved multilaterally in a further GATT round. Such negotiations could also be used to win agreement on rules designed to deal with special or unique problems affecting cross-border trade; they would provide a more secure shield against a U.S. policy of protection.

The royal commission went on to say:

> The pursuit of Canada-U.S. free trade is not at odds with efforts to strengthen and improve the existing multilateral framework. Rather, commissioners see it as a complementary approach, involving concentration of our efforts and scarce resources on our most important market. We see multilateral negotiations proceeding in parallel. In our view, such a two-tiered approach is the best way to ensure that Canadian industry will win sufficient access to foreign markets to invest and grow with confidence. At the same time, it will allow us to open our market in an orderly fashion and thus ensure that trade policy does its part in encouraging the development of a more competitive and more productive economy.

That is exactly the point that was made several years earlier by the Standing Senate Committee on Foreign Affairs.

● (1530)

Based on this assessment the royal commission recommended that:

> The Government of Canada, at the same time it undertakes an initiative at the multilateral level to eliminate trade barriers, open negotiations with the Government of the United States to reach agreement on a substantial reduction of barriers, tariff and non-tariff, between Canada and the United States. Such an agreement would have to stand within the terms of Article XXIV of the GATT, and it would provide for a reduction of barriers between the two countries, but would leave each country with freedom of action to maintain separate trading policies with other economic partners.

Like the Senate Foreign Affairs Committee several years previously, the royal commission considered Canada's sovereignty and concluded as follows:

> This Commission has been profoundly impressed by the confidence that Canadians have come to show in themselves as individuals, and in their country as a political community. The evidence obtained through our public hearings, as well as from personal observation and other sources, has led us to conclude that, as a people, we Canadians are no longer victim to the enervating sense of uncertainty that derives from self-perceived "colonial"... status.
>
> The day of the apologetic Canadian is gone, and there is no reason to suppose that our present confidence will be undermined by an arrangement designed only to secure a continuing exchange of goods and services with the United States.

Honourable senators, the Macdonald commission of 1985, like the Senate committee of 1982, might have designed a Free Trade Agreement somewhat different from that which we have before us. But does the present agreement achieve the objectives that the Macdonald commission had in mind? Obviously, the Honourable Donald S. Macdonald thinks it does. Here is what he has had to say:

> The Free Trade Pact... is the beginning of a golden era for Canadian businesses and workers. Canadian businesses and workers now have an opportunity to crack the huge U.S. market, free from the protectionism other world traders will confront.

Those are the words of the Honourable Donald S. Macdonald, a former colleague of a number of present senators in the Trudeau government.

Senator Frith: Yes, and now our distinguished High Commissioner in London.

Senator Murray: Let me cite also the advice that the Honourable Donald S. Macdonald gives to parliamentarians as to what we should do about this Free Trade Agreement. I am quoting from comments that he made in Ottawa on May 25 last. He said:

> The Free Trade Agreement has been the subject of long and thoughtful discussion and debate and, we believe, it is in the interest of the country and Canadians that swift passage of this legislation proceed through the House of Commons and through the Canadian Senate.
>
> The Canadian Alliance for Trade and Job Opportunities—

Of which Mr. Macdonald was co-chairman—

> —believes we are on the way towards making this agreement a reality for all Canadians. And Canadians have a right to expect that no particular interests be allowed to stand in the way of a national opportunity of this size and scope.
>
> ... we have all spent a great deal of time and effort on this national initiative. A process of broad consultation across the country at all levels has afforded Canadians an opportunity to participate in discussion and debate on the issue of free trade. Now, with the introduction of legislation, we have moved a step closer to new opportunities and new challenges. The Canadian Alliance urges the Members of our Parliament and the Senate to ensure unimpeded passage of this legislation.

Honourable senators, the Government of Canada acted in line with the recommendations of the Senate committee and the royal commission when, in September of 1985, Prime Minister Mulroney announced the free trade initiative with the United States. In May of 1986 we entered into negotiations with the United States towards a Free Trade Agreement, and in September of 1986 entered into the Punta del Este Round of multilateral trade negotiations under the GATT.

The government established three primary objectives for the free trade negotiations. First, to achieve enhanced access to the U.S. market; second, to achieve more secure access to that U.S. market; and, third, to enshrine these benefits in an agreement containing adequate institutional provision to give them effect.

As well, the government, from the very beginning, set out what we were not willing to place at issue in these negotiations. Primarily, first, Canada's social policies and programs; second, our ability to combat regional disparities; third, agricultural supply management programs; and, fourth, cultural policies and support for cultural industries.

I ask honourable senators, in reviewing this legislation, to examine the agreement and the bill in the light of the stated objectives of the government in the negotiations.

First, did we achieve enhanced access to the U.S. market? The answer is "yes." In the C.D. Howe study to which I referred earlier, there is a list of 18 ways in which Canada, through this agreement, achieves increased access to the United States market. I will not list the 18 ways, but I will give you some of them.

Tariffs will be phased out; better rules of origin will be put in place; national treatment will be extended to Canadian businesses in the U.S.; non-tariff barriers such as discriminating product standards will be reduced; access to federal government procurement will be improved; certain service industries will gain freer access to the U.S. market; and temporary entry for business people and service personnel will be made easier.

By any fair examination, the Free Trade Agreement achieves the first objective that the government set for itself: To gain enhanced access to the U.S. market.

Did we achieve objective number two, more secure access to the U.S. market? Here, again, I refer to the evaluation of the free trade arrangement put out by the C.D. Howe Institute. In that study they list eight ways in which Canada has achieved more secure access to the U.S. market through this agreement.

Consider the evidence. The Auto Pact will be reaffirmed; safeguards actions by the U.S. will not apply to Canada if the problem arises from a third country. There will be no more sideswipes, which Canada has had considerable experience with in the past, where we are caught up in retaliatory and punitive action intended not for us but for a third country, but which affects directly anyway. Safeguards actions against Canadian producers will be subject to binding dispute settlements, and countervail and anti-dumping actions will be subject to binding dispute settlements. These reciprocal obligations will be enshrined in the Free Trade Agreement and trade disputes will be dealt with through a formal dispute settlement procedure under a new Canada-U.S. trade commission.

• (1540)

Honourable senators, the dispute-settlement provisions of the Free Trade Agreement are one of the key areas of controversy. Are they adequate? Do they achieve the objective of more secure access? Let me give you the assessment of the C.D. Howe Institute. It is as follows:

> Although it falls short of many people's expectations in this area, the Agreement incorporates dispute-settlement mechanisms that are clearly superior to those in the GATT, and probably superior to those in all other regional trade liberalizing pacts.

Later, in the same study, the institute said:

> Whatever its shortcomings, the Agreement provides for much more liberalization of trade and for the removal of many more trade irritants than does any other international trading agreement in existence today. It helps access in three ways—it increases the access of Canadian producers to the U.S. market, it makes that access more secure, and it promises to add to that security in the future.

Honourable senators, did we achieve objective No. 2, more secure access to the U.S. market? Yes, we did. And have we achieved objective No. 3, to enshrine these benefits in an agreement with adequate institutional arrangements? Yes, we have.

Regarding the matters that the government was not prepared to place at issue in the negotiations, first, Canada's social policies and programs are not in any way covered by this agreement. For example, the government has recently brought forward a national initiative in child care. I invite honourable senators to read the devastating comments of Senator van Roggen in his article in the *Financial Post* dealing with those who contend that our social policies and programs are somehow under threat by this agreement. Second, our ability to combat regional disparities is unimpaired. Indeed, the opportunities for regional development are increased, given better access to the United States market. Third, agricultural supply management programs remain intact and Canada's rights under Article XI of the GATT, under which these operate, are specifically recognized in the agreement. And, fourth, cultural industries are specifically exempted from the agreement.

[*Translation*]

Honourable senators, the advantages of the free trade agreement have been assessed by a number of well-qualified institutions. The Minister of Finance published his own assessment on January 18 of this year. According to that assessment, first of all, 120,000 new jobs would be created between now and 1993.

Second, Canadians would see a 2.5 per cent increase in real income, adding up to a permanent gain of $12 billion.

Third, business investment would increase by 4 per cent, in real terms, between now and 1993.

Fourth, production in the manufacturing sector would increase by 11 per cent between now and 1999.

Fifth, the cost of goods imported from the United States would drop by an average 5 per cent.

The Minister of Finance also mentioned three more major advantages which were impossible to quantify:

First, the number of existing jobs that would otherwise have been at risk or lost as a result of U.S. protectionist measures and that will now be maintained thanks to the free trade agreement;

Second, the increase in foreign investment in Canadian industry by entrepreneurs seeking secure access to the North American market;

Third, improved economic efficiency in Canadian industry that will lead to increased production and better specialization. This last aspect is particularly important, to enhance our competitiveness on foreign markets.

As was mentioned by the Macdonald Commission, Canada is the only large industrialized country without guaranteed access to a market of at least 100 million consumers. More secure access to a U.S. market of 240 million consumers will enable our exporters to compete more effectively with producers in Japan, the Common Market and the United States.

A number of independent organizations, including the Economic Council of Canada, the Conference Board of Canada, the C.D. Howe Institute and the Canada West Foundation have also concluded that the Free Trade Agreement will lead to an increase in income and investment, improve productivity and reduce prices in Canada.

In fact, the Economic Council of Canada, in an assessment published in 1988, predicted gains that could translate into as many as 250,000 jobs.

Assessments also conclude that such gains will be realized in all provinces and in the many sectors of our economy.

[*English*]

Honourable senators, at the outset of the negotiations, the Prime Minister established a system for regular consultation with provincial governments and with the private sector that is unprecedented in Canada's history. First Ministers met on ten occasions for the sole purpose of reviewing the negotiations and receiving reports from our negotiators. The issue dominated two of the annual meetings of First Ministers, one in Halifax in 1985 and one in Toronto in 1987. In addition, over 100 meetings of federal and provincial officials were held. Private sector consultations were carried out through the International Trade Advisory Committee and 15 sectoral advisory groups representative of all interested sectors and all regions of the country. These groups advised as well on the multilateral trade negotiations and they have been reconstituted to continue that work.

The Free Trade Agreement enjoys the support of eight provinces, including governments from the three political parties now holding office in Canada.

Senator Frith: Provincial governments, you mean.

Senator Murray: This reflects the widespread nature of the benefits of the Free Trade Agreement and it also reflects the extent to which the federal government was able to achieve common goals in these negotiations. As well, almost unanimously, representatives of the Canadian business community, including the Canadian Exporters' Association, the Canadian Chamber of Commerce, the Canadian Federation of Independent business, the Canadian Manufacturers' Association and the Business Council on National Issues, are strongly supportive of the Free Trade Agreement.

● (1550)

This support spans major sectors of the economy, from resource producers to manufacturers to service industries. These groups have, time and again, expressed their confidence that Canadian businesses and their employees will reap major benefits from the increased opportunities under free trade.

Honourable senators, no major national initiative—certainly not an initiative that has historically inflamed passions in the way that Canada-U.S. free trade has—could proceed without controversy. There have been three general arguments proposed by the opposition parties against the Free Trade Agreement: First, that it will impair Canada's sovereignty; second, that it will lead to "harmonization" of Canada's policies and programs with those of the United States, and that, as a result, our country will become more like the United States; and, third, that by entering a bilateral free trade agreement with the United States Canada is undermining the multilateral trading system under the GATT.

Well, let us take the sovereignty question first. In simplest terms, giving up sovereignty means giving up our ability to control our affairs as a nation. How can we have done this in the Free Trade Agreement that is before us? First, the obligations that we will undertake in the Free Trade Agreement with the United States are not unilateral, they are reciprocal: we lower tariffs; they lower tariffs. We accept certain rules regarding controls on investment, they accept the same rules, although we have each retained certain special rules; in our case, for example, we continue to have controls on investment in cultural industries. We accept certain rules for origin of goods, they accept the same rules for origin of goods, and so forth. Reciprocal obligations are the essence of any trade agreement. They do not transfer powers from the Government of the United States to the Government of Canada, or vice versa; rather, they establish rules for each government in the continuing exercise of its sovereign jurisdiction for the conduct of our mutual trading relationship.

One may argue that in practical effect one party or another has gained an advantage in the deal, but that is not a matter of sovereignty; rather, it is a matter of weighing the bargain. I say that this is a balanced agreement in its principles, but it is one that yields greater benefits for Canada, because we have gained increased opportunities in a market ten times the size of our own, but that is a matter distinct from the matter of sovereignty.

Second, the Free Trade Agreement, by its terms, can be terminated by the Canadian government on six months' notice, as Mr. John Turner has stated he will do if elected Prime Minister. He would tear up the Free Trade Agreement. That might be a difficult thing to do politically if the agreement yields major benefits to Canada, as I believe it will. In those circumstances, it probably should not be terminated anyway. However, if it is not working to Canada's benefit, the option is there, simply by giving six months' notice. Sovereignty is not impaired where Canada retains the absolute right to put the agreement to an end.

The second general argument against the Free Trade Agreement is that it will lead to "harmonization" of Canada's policies and programs with those of the United States, with Canadian society becoming more like that in the United States. But how is this to occur, and what does historical experience teach us?

Since the 1930s successive Canadian governments have reduced trade barriers with the United States through multilateral agreements and through bilateral agreements, and while those barriers have been reduced, and bilateral trade in a more openly competitive environment has burgeoned, Canadian governments have created a modern social safety net, carried on regional development as a national responsibility, reinforced Canada's cultural integrity and sovereignty, and supported our cultural industries.

The reduction of trade barriers and the consequent, more open, competition between Canadian and American firms has led not to harmonization but to the growth of an economically strong and dynamically distinct Canada. We will become no less compassionate as a society, no less progressive as a nation, and no less Canadian by the further reduction of trade barriers. Indeed, the gains in efficiency and competitiveness spoken of by the Senate committee and by the Macdonald Royal Commission, the increase in incomes, the improvements in standards of living, the increased opportunities for this and future generations of Canadians can only make for a stronger

Canada, politically, socially and culturally, as well as economically.

Another so-called cause of harmonization pointed to is the negotiations to be undertaken over the next five to seven years on the rules for anti-dumping and countervail. Anti-dumping is selling goods for less in the other fellow's market than you do in your own. So that cannot be the problem. What, then, about countervail? The purpose of countervailing duties, which we use as well as the United States, is to protect the domestic industry from significant harm caused by unfair subsidies given to foreign companies exporting into your market. This means export subsidies—for example, if we pay 50 cents to widget producers for every $1's worth of widgets they export into the United States. But it is not about medicare, child care, old age pensions, family allowances or any social programs; nor is it about the kinds of regional development programs we carry on in this country. We want to achieve a clear set of rules for countervail that will prevent the kind of politicized decision making that we saw in the United States in the softwood lumber case. Binding dispute mechanism is our main line of defence against that type of politicized decision making while the rules of countervail are reviewed. If the Americans at some time over the course of these negotiations were to suggest some distorted approach to these issues, we, or any other Canadian government, would say "No." It is nothing more than a dark fantasy to leap from a review of the rules of countervail to the abandonment of medicare, as some critics of this agreement have done.

The third general argument used against the Free Trade Agreement is that by entering such an agreement Canada is undermining the multilateral trading system under the GATT. The government has followed a two-track policy in trade negotiations, bilaterally with our largest trading partner and multilaterally under the GATT. We have achieved agreement with the United States in our bilateral negotiations, and we are hopeful of a successful outcome in the multilateral trade negotiations, although these have a long way to go yet. Mr. Crosbie, the Minister for International Trade, hopes to make significant progress at the mid-term review meeting to be hosted by Canada in Montreal in December of this year.

GATT Article XXIV specifically provides for free trade agreements between member countries. The Canada-U.S. Free Trade Agreement comes within the provisions of this article of the GATT. As the Director General of the GATT organization, Arthur Dunkel, has said, "The Free Trade Agreement will, in no way, hinder each country's trading obligations with the rest of the world."

In June, as honourable senators will recall, the seven leaders at the Economic Summit, including our largest trading partners in Europe and Asia, strongly welcomed the Free Trade Agreement and noted the contribution it should make towards success in the multilateral trade negotiations. So rather than undermining the multilateral trading system, the Free Trade Agreement is building on it and is contributing towards success in the current round of GATT negotiations.

[Senator Murray.]

On this very point, Professor Lipsey and Mr. York said, and I quote:

● (1600)

> The Agreement is founded mainly on the GATT and on GATT principles. Many clauses—including some of those that have come under severe criticism—merely repeat obligations Canada already has undertaken by virtue of its membership in the GATT. By embedding GATT rules and regulations in the Agreement, both countries have restated the agreed rules of international trade. The Agreement makes these rules more visible, and possibly more enforceable, than they are under the GATT.

In the very next paragraph, Professor Lipsey and Mr. York say of the Free Trade Agreement:

> It extends the GATT. An important achievement of the Agreement is that it goes well beyond the scope and coverage of current GATT obligations. It includes important trade liberalizing measures in agriculture, services, business travel, and investment, and a commitment to develop bilateral rules for trade remedies. These achievements recognize the changing structure of world trade, and provide a prototype for future multilateral and bilateral agreements.

I ask honourable senators to read that document and to pay particular attention to the comments about the relationship of the Free Trade Agreement to the GATT and to multilateral trade liberalization. It says that this Free Trade Agreement enforces and provides a prototype for future bilateral and multilateral agreements.

How often do we need to remind skeptics and critics of the facts of life: that some 30 per cent of Canada's income and employment derives directly from exports; that, along with Australia and New Zealand, we are practically the only industrialized country that does not have free access to a market of at least 100 million. Japan's domestic market is 120 million people; the United States' is 240 million; the European Economic Community and the European Free Trade Association's is 360 million. The Canadian domestic market is 25 million people. That is the reality. It is the challenge that the Free Trade Agreement addresses.

What is the trade alternative of Mr. John Turner, who wanted us to walk away from the table a few months after we began the negotiations and who now is committed to tear up the agreement if he becomes Prime Minister? The Liberal Party released a trade proposal on June 13. It was announced by the Honourable Lloyd Axworthy on behalf of that party. Since then, a further proposal has been prepared and was, I believe, presented by the Right Honourable Mr. Turner to the Premier of Quebec at their meeting in Quebec City on August 17. However, as we all know, Premier Bourassa emerged from that meeting, as before, fully committed to the Free Trade Agreement.

The latest Liberal proposal consists of five main elements: three relating to trade; one relating to international monetary policy; and one relating to domestic policy. While the elements

are intended to reinforce one another, the three trade elements constitute what might be called the "Turner Alternative" to the matters dealt with in the Free Trade Agreement.

First, there is the GATT, which the Liberals hope to improve, especially in the dispute-settlement procedure. Well, so do we. That is why Canada is taking a lead role in the working party of the GATT that is now considering dispute-settlement mechanisms under the GATT.

The problem with the Liberal approach was put succinctly by Peter Bentley, Chairman of the British Columbia-based forest products firm, Canfor, when he recently said that we have no assurance when the current Uruguay Round of GATT negotiations will be completed. He said that it could take years.

I should say, in parenthesis, that the last GATT round took six years to negotiate. Mr. Bentley went on to state:

> In the meantime, we could find ourselves in the embarrassing position of all being unemployed and bankrupt if U.S. protectionism prevailed before this event took place.

The second trade element of the Turner Alternative is to seek sectoral free trade arrangements with the United States rather than a comprehensive Free Trade Agreement, as has been negotiated. The sector-by-sector approach was tried in 1983-1984, as honourable senators will recall, and it did not work. The U.S. sought to press forward in sectors where they had an advantage; Canada wanted to do so in sectors where it had an advantage. The same problems would face any future attempt at sectoral negotiation.

There is another problem referred to by the Honourable Donald Johnston, M.P., in his speech during third reading of Bill C-130 on August 29. He said:

> . . . as Members of this House probably know, although some may not, sectoral agreements are totally incompatible with the GATT and require waivers from two-thirds of the GATT members in order to enter into them.
>
> These are not areas, and this is not an approach which enhances international trade. It restricts international trade.

The Honourable Gerald Regan, a former Premier of Nova Scotia and member of the other place, was Minister of International Trade when the sector-by-sector approach was tried and failed in 1983-1984. Here is what he has said:

> When I was a member of Mr. Trudeau's government, I recognized the importance of obtaining better guarantees of access to the vital American market . . . I have come to the conclusion that the present free trade project is a more meaningful, courageous and important undertaking . . . more important than our limited negotiations.

The third trade element, honourable senators, of the Liberal proposal is to diversify our export markets, emphasizing trade with the Pacific Rim and Europe. In fact, this government has taken measures to do just that. The 1985 National Trade Strategy established a major initiative towards the Pacific Rim. Trade between Canada and Japan has increased and we have re-established a trade surplus with that country. However, the idea of increasing trade with other countries to substitute for trade with the United States has never worked. It did not work despite the gallant attempt of the Diefenbaker government in the late 1950s to divert 15 per cent of our trade from the United States to the Commonwealth. It did not work when Mr. Trudeau tried something of the kind. Mr. Trudeau's "Third Option" was no option at all. The proportion of our exports going to the United States increased steadily during those years. The sensible goal, and one that this government is following, is a balanced trade strategy seeking new markets wherever there is an opportunity to do so.

The Liberals' so-called "Alternative" to this Free Trade Agreement is no alternative at all. It ignores the threat of U.S. protectionism. It expresses high hopes for what the multilateral trade negotiations may be able to achieve if the 95 member countries agree. It ignores the benefits that have been achieved under this Free Trade Agreement with the United States, in terms of increased and more secure access to the United States market and the binding dispute-settlement mechanism.

The New Democratic Party's proposal was released in January 1988. Like the Liberal proposal, it calls for greater reliance on GATT and on diversifying overseas markets. However, instead of sectoral free trade, it calls for sectoral-managed trade arrangements such as the Auto Pact. Mr. Broadbent, if I recall correctly, mentioned chemicals and electronics as possible areas where this might be done. Honourable senators know that the situation of the automobile industry on the North American continent in the 1960s bears no resemblance to the situation of any sector in North America today. Negotiating the kind of arrangement Mr. Broadbent is talking about, under which the United States would agree to divide production on our behalf in order to gain access to the Canadian market, really has no hope for success. What would we permit the United States to export to Canada that they do not export now?

• (1610)

So that proposal suffers from the same failings as the Liberal proposal. Neither offers an effective alternative to the Free Trade Agreement. The central idea of both is profoundly negative, to repudiate a Canada-U.S. trade arrangement supported by virtually everyone in Canada's export community.

Bill C-130, the legislation to implement this agreement, has a single purpose: To make those changes to Canadian laws necessary to carry out Canada's obligations under the Free Trade Agreement. As the agreement is negotiated as a package, as are all international agreements, Parliament cannot pick and choose among the pieces. One accepts the whole agreement or rejects it.

[*Translation*]

Honourable senators, since the publication of Elements of the Free Trade Agreement on October 4 and the final text on December 10, 1987, Parliament has done a thorough study of the agreement: Six days of debate in the other place, fifty-eight briefs, a hundred and fifty witnesses and a hundred and

twenty hours of testimony before the Standing Committee of the House of Commons on External Affairs and International Trade, twelve hours of debate on Bill C-130 in the other place, fifty briefs, fifty-three witnesses and eighty-five hours of testimony on Bill C-130 before the legislative committee of the other house, and since November 17, 1987, forty-two meetings plus the testimony of 90 witnesses before the Senate Committee on External Affairs.

On June 8 of this year, the Leader of the Opposition in the Senate stated that the Liberal majority in this chamber would not agree with my proposal to start a preliminary study of Bill C-130.

When the government consulted the opposition parties in the House of Commons on the time frame for the two last stages of the bill, the opposition parties answered they wanted 350 days, which is more time than this Parliament has left to go. Furthermore, the procedural objections formulated by the opposition parties in the other place, all of which were ruled out of order by the Speaker, delayed consideration of the bill for three weeks. In subsequent weeks, further delay was caused when a recorded vote was demanded on first reading of bills presented by members of the opposition, including a bill to make hockey Canada's national sport.

It is partisan and misleading to claim that the government blocked examination of Bill C-130 in the House of Commons. In fact, it was the opposition parties that took advantage of every opportunity they saw to block and delay the bill.

[*English*]

This brings me, honourable senators, to the position of the Senate with regard to this bill and to our role, the role of this house, in Canada's parliamentary democracy. Honourable senators know, as I was just saying in French, that I would have preferred a pre-study on this bill. I made a proposal to that effect on May 31; four speakers spoke to the motion and then it was adjourned on June 9 in Senator Frith's name, and there it has stood. They have never allowed the proposal to come to a vote. Nevertheless, we have had the value of the Foreign Affairs Committee study, not of the bill, but of the agreement, and the bill is now before us for second reading.

What should happen now, and what usually does happen at this stage of a bill, is that a debate of fairly brief duration takes place, although Senator MacEachen, I note, has been quoted in the media within the last couple of days as saying that he expects a debate on second reading of several weeks' duration—

Senator MacEachen: Not me!

Senator Murray: It must have been Senator Frith then. I am getting my two friends confused.

Senator Frith: Two to three weeks I think I said.

Senator Murray: Two to three weeks Senator Frith said, but one always assumes that he speaks for Senator MacEachen. Can one not assume that?

Senator Frith: He does not, but I do.

[Senator Murray.]

Senator Murray: We shall see. As we all know, there is a debate of relatively short duration in this house on second reading, but one would understand if more than the usual two or three senators wanted to speak on a bill of this importance at this stage.

When honourable senators who wish to speak have done so, the bill is given second reading, or approval in principle, and it is referred to a committee for consideration. In due course, the committee reports the bill and the Senate has another decision or decisions to make. In the life of the current Parliament, there have been cases where we have run into games of legislative ping-pong occasioned by proposed Senate amendments to government legislation. These have ended either with the differences being resolved or with the House of Commons insisting on its view and the Senates' acceding.

In no case in the modern history of our Parliament has the Senate defeated a bill at second reading, nor has it thwarted the will of the elected house by blocking a bill, as Mr. Turner would have us do now.

As Mr. Turner said himself in the House of Commons on August 28, 1987:

> Our position is quite clear on the jurisdiction of the Upper House . . . at the end of the day—

Senator Frith: Senator, whom are you quoting?

Senator Murray: The Right Honourable John Turner, Leader of the Opposition, the national leader of the Liberal Party.

Senator Frith: That is all right. That is the next Prime Minister of Canada.

Senator Murray: The ex.

Senator Frith: Next. Put an "n" and a "t" on that, sir.

Senator Murray: As Mr. Turner said in the House of Commons on August 26, 1987:

> Our position is quite clear on the jurisdiction of the Upper House . . . at the end of the day, the elected House of Commons must prevail. That is the clear position of the Liberal Party.

Senator MacEachen has been quoted in *The Globe and Mail* as saying it was not the Senate's role "to thwart", as he put it, "to thwart the clearly expressed will of the House of Commons".

Honourable senators, on July 20, Mr. Turner—

Senator MacEachen: I cannot confirm or deny.

Senator Roblin: But you will.

Senator Murray: —Mr. Turner announced that he had called on the Liberal Caucus in the Senate, the Liberal majority in the Senate, and they had agreed to block Bill C-130 for the duration of this Parliament.

Senator Frith: No!

Senator Bosa: He said delay.

An Hon. Senator: B-L-O-C-K!

Senator Bosa: D-E-L-A-Y!

Senator Murray: They had agreed to block Bill C-130 for the duration of Parliament. As recently as Thursday, in the course of another debate, Senator Frith, the Deputy Leader of the Opposition, confirmed for the first time so far as I am aware in this place that it was the intention of the Liberal majority in this place to accede to what he called the request of Mr. Turner and block the bill for the duration of this Parliament. Senator Frith told us that at a Liberal caucus, 80 or 90 per cent of the Liberal senators present unanimously agreed to accept what he called the request of Mr. Turner to block the bill for the duration of the present Parliament.

• (1620)

Senator Frith: Postpone.

Senator Murray: To refuse to pass the bill; to refuse to dispose of the bill during the present Parliament. Is the honourable senator playing with words? Can there be any doubt about the meaning of Mr. Turner's instruction? Can there be any doubt about the response of the Liberal senators—

Senator Frith: I hope not!

Senator Murray: —as conveyed to this place on Thursday last by Senator Frith? If that is their intention, it does raise the question: What is the point of continuing with the debate? But in any case, I should like to discuss some of the implications of the decision that the Liberal caucus had taken, as communicated to us by Senator Frith on their behalf last Thursday.

Mr. Turner's slogan, in issuing his unprecedented direction to the Liberal senators, is "Let the people decide". But the people will decide on the Free Trade Agreement whenever the election is held, and the people will have a clear choice. Mr. Turner, on October 26, 1987, has pledged to "tear it up"; Mr. Broadbent is apparently of the same view. They would, I gather, invoke the six months' notice provided for in the agreement and put an end to it. How could the choice facing the electorate between the government and opposition be clearer?

In his speech on third reading of Bill C-130 on August 30, Mr. Turner stated his rationale for giving the direction that he did on July 20 to the Liberal majority in this chamber. There were three elements: First, a government going into its fifth year has, he said, no right to press on Canadians a change so fundamental as a free trade agreement. Second, the government, he said, received no mandate in its election of 1984 to enter into a free trade agreement with the United States. Third, there had been inadequate debate in the other place, including no travel by the legislative committee studying Bill C-130.

Regarding the first element of this rationale, there is no difference, honourable senators, between the right of a government to govern in its first, second, third, fourth or fifth years in office. For example, Prime Minister Trudeau sought to achieve major constitutional change in the fifth year after his re-election in 1974. As I recall it, there was a federal-provincial conference that he called some five months after he had entered the fifth year of his mandate, a federal-provincial conference at which he laid before the provincial governments the most far-reaching proposals for constitutional change. Did the Senate object on the ground that Prime Minister Trudeau's mandate was going into its fifth year? When has the Senate taken a position on a government bill on the basis that that bill had been presented in the first, second, third, fourth or fifth year of a mandate? The federal elections of 1962, 1972, 1979 and 1984 were held well into the fifth year of the mandates of those governments. Did the Senate ever object to important legislation coming from the House of Commons on the ground that those governments were approaching, or had overtaken, their fourth anniversaries in office? No, it did not.

In any case, when Mr. Turner talks about fundamental change, I think the Senate should recall that reduction of trade barriers between Canada and the United States has been going on since the bilateral agreements of the 1930s. Adoption of the new rules for commercial trade, including services and investment—which are, by the way, under negotiation now in the multilateral forum—is not a fundamental change for Canada any more than was Canada's entry into the GATT in 1947. Professor Lipsey and Mr. York said of the agreement:

> It comes close to completing the program, begun in 1935, of integrating the Canadian economy into the world trading system.

As I have stated, whatever change may be brought about from implementation of this agreement is reversible by any future Canadian government on the giving of six months' notice and termination. Mr. Turner has stated unequivocally that such is his intention; as Prime Minister, he would tear up the agreement. The people of Canada will have an opportunity to vote for that position.

Meanwhile, the duty of the Senate surely is to proceed with this bill and to pass this bill which has come to us from the elected House of Commons. That house has not sent the bill here for us to block it or to thwart the will of the elected representatives of the people.

The second element of Mr. Turner's rationale is that the government received no mandate in 1984 for this agreement. As I have said, that argument turns on whether this is some fundamental change in policy. However, as I have already pointed out, the Free Trade Agreement and Bill C-130 do not represent any revolutionary change in Canada's policy. This step, while it is important and while we believe it is vital for Canada's future is, in the context of history and in the context of politics, an evolutionary step.

In any case, to accept Mr. Turner's thesis would be to accept that the right to govern is somehow frozen on the day of balloting, but we know it is not. The right to govern bears with it the responsibility to respond to changing circumstances—in this case the dramatic increased threat of United States protectionism. The right to govern bears with it also the responsibility to respond to new opportunities, as evidenced by the willingness of the United States to negotiate an agreement that

would significantly improve Canada's competitiveness in the United States and globally. You can invoke the so-called mandate theory of government and you can quote what Prime Minister Mulroney or some other Conservative said in the past about some hypothetical free trade arrangement between Canada and the United States, some customs union or some common market; you can go back to the position of Sir John A. Macdonald, who changed his position at least once, or you can refer to Sir Robert Borden or to Sir Wilfrid Laurier and their respective positions in their vastly different times. However, for a complete about-face, for an unmitigated betrayal of a mandate that had been sought and received from the Canadian electorate, the Senate has never seen, and probably never will see, anything to compare with the imposition of wage and price controls in 1975, one year after the government of Prime Minister Trudeau had waged an entire election campaign on the explicit pledge that they would not bring in such a program.

● (1630)

Senator Frith: That woke them up, by George!

Senator Murray: Where was the Senate then?

Senator MacEachen: Well, you tell us.

Senator Murray: The Liberal majority in the Senate approved Mr. Trudeau's legislation in 1975, and I am not aware of any dissenting voices in their caucus.

Another example where the Senate, by invoking the principle now proposed by Mr. Turner, might have acted differently was Mr. Trudeau's constitutional amendment of 1982. Prime Minister Trudeau had promised renewed federalism to the people of Quebec in the referendum campaign of 1980.

Mr. Raymond Garneau, Member of Parliament and Mr. Turner's Quebec lieutenant, has told us in recent months that if the people of Quebec had known what Prime Minister Trudeau meant by "renewed federalism" they would have voted differently in the referendum. Where were the Liberal senators then? Did they block or hold up the joint address in 1981? No, they did not.

Senator MacEachen: Was not Mr. Garneau talking about Mr. Trudeau's comments on Meech Lake?

Senator Murray: I would refer the Leader of the Opposition, and all others who are interested, to the position Prime Minister Mulroney and the Conservative party have taken consistently, which was expressed, in particular, in Prime Minister Mulroney's speech of September 7 in Sept-Iles. It is logical, normal and well justified for Prime Minister Mulroney and the Conservative government to claim that they have an overwhelming mandate, certainly from the people of Quebec and certainly from the people of Canada, to pursue national reconciliation in the way we have done.

Senator MacEachen: Please relate Mr. Garneau's comments.

Senator Murray: In response to Mr. Trudeau's statements on Meech Lake, which was the occasion for the comments, Mr. Garneau said that if the people of Quebec had known what Mr. Trudeau meant, if he had said during the referendum what he said here, the people of Quebec would have voted differently in the referendum. That is the point.

With the greatest of respect to my honourable friend, I would consider Mr. Garneau a rather more qualified authority on the feelings of the people of Quebec than either of our friends opposite.

Senator MacEachen: It is rather tortured logic, I must say.

Senator Murray: Having said that, I should like to refer again to the debate on the constitutional amendment. At that time, Senator Bonnell—and I am sorry he had to leave early—said:

> We could also lose our bicameral parliamentary system . . .

through the constitutional resolution, he meant,

> . . . But despite my objection to this section, I intend to support it, because I feel that if it represents the wishes of the members of the House of Commons, and of seven of the Canadian premiers, that the Constitution should be changed, then those seven premiers could well represent the respective regions. It would not behoove me to think that I know more than they, and therefore I intend to support this part of the Constitution.

Applying that same meticulous logic, I will commend this free trade bill, Bill C-130, to Senator Bonnell, because it has the support not just of the House of Commons and seven provincial governments but of eight provincial governments.

Senator Steuart: We will mention it to him.

Senator Murray: I thank my honourable friend for that. The Senate did not act in accordance with this principle on any previous occasion, certainly not in our modern history. One wonders if there is one set of principles for the Senate when the Liberal government is in office and a different set of principles when a Conservative government is in office.

Some Hon. Senators: Hear, hear!

Senator Murray: What are those principles? Will Mr. Turner spell this out during the campaign? Will honourable senators speak to this question during this debate?

I am told that the Liberal Party could have a majority in the Senate, as presently constituted, until the year 2008.

Senator Frith: Hear, hear!

Senator Murray: Under what circumstances, then, would Mr. Turner consider it legitimate to use the Senate again in this manner? Will he spell this out? Will honourable senators indicate under what circumstances they believe the exercise of this power—and it is a power—is legitimate?

Senator MacEachen: Case by case.

Senator Murray: If an old régime, one that has been repudiated massively by the electorate, can cling to power and can frustrate the legislative process long years into the future by virtue of having packed the Senate with its partisans, what becomes of parliamentary democracy in Canada? When I

refer to "old régimes," I am not referring only to Mr. Trudeau's régime, since he officially, at any rate, bears the responsibility for the appointment of many honourable senators opposite. I am referring also to the Turner régime, short-lived though it was.

Senator Steuart: Some on that side also.

Senator Frith: Senator Roblin, for example, is among that distinguished company appointed by Mr. Trudeau.

Senator Murray: Although Mr. Turner told us in 1984 that he had no option but to accede to the last final orgy of patronage appointments by Mr. Trudeau, it now appears about to be revealed in a book published on Mr. Turner by an Ottawa journalist that Mr. Turner was conniving—indeed, actively participating—in that orgy all the while he was telling the Canadian people that he had no option and that he was not really involved.

If the Senate should try to arrogate to itself the right to determine a dissolution of Parliament, what would become of the role of the elected house or the prerogative of the Prime Minister to recommend dissolution?

I should like to leave honourable senators with some thoughts on this matter from one of our most senior and most respected retired public servants, the Honourable Gordon Robertson, who has been Secretary to the Cabinet, Clerk of the Privy Council, Secretary to the Cabinet for Federal-Provincial Relations, and deputy minister of various departments. Mr. Robertson was speaking on August 23 about the role of upper chambers in federations. Of course, Mr. Robertson has been on record for a long time as favouring an elected Senate. He said:

> Our senators do not represent the people in the provinces in which they reside: they represent no one. They cannot speak for any region, for they have no authority to do so. In short, a Senate appointed by the central government cannot discharge the basic function of a second chamber in a federation.

Senator Frith: And whom does Mr. Robertson represent?

Senator Stollery: Mr. Robertson.

Senator Murray: I should like my friends to listen very carefully to this next paragraph.

Senator Frith: We are not compelled to do so. There is nothing in the Constitution that says we have to.

Senator Murray: No, but I think they would listen for profit. Successive Liberal governments, and, indeed, some Conservative governments, have received and followed and seldom gone wrong in following, the advice of a distinguished public servant of the stature of Gordon Robertson. Senator MacEachen says that some of Mr. Robertson's advice was good and some of it not so good. Perhaps he will elucidate when he speaks.

● (1640)

Senator Frith: Make him an offer!

Senator Murray: It is easy to blame the public servants—

Senator MacEachen: You were quoting one of those—

Senator Murray: —for political disasters.

Senator MacEachen: —hangovers from the old regime.

Senator Murray: Mr. Robertson has been a distinguished public servant. He is now—

Senator MacEachen: Like the senators here—

Senator Roblin: Pay attention, now! It will do you good!

Senator MacEachen: Like the senators here, he is one of Mr. Trudeau's appointees.

Senator Murray: And my honourable friend should listen to what he has to say. He went on to say—

Senator MacEachen: Apparently he has more credibility than the rest of us! Just because we happen to be in the Senate, we have lost our credibility!

Senator Murray: No, no, not your credibility, your legitimacy.

Senator MacEachen: But Gordon still has it, even though he was successively re-appointed by Mr. Trudeau.

Senator Murray: You lack the legitimacy to do what John Turner is calling on you to do.

Senator Frith: Unlike Mr. Robertson!

Senator Murray: Let us listen to what he has to say.

Senator Frith: This is still Mr. Robertson speaking on behalf of his constituency!

Senator Murray: This is good!

Senator Nurgitz: Give them the whip!

Senator Murray: He went on to say:

> It is to be hoped that the present cynical abuse of power by the Liberal majority in the Senate may, in the end, convince thinking people in Canada that this one serious mistake in our federal structure must at last be remedied.

Senator Roblin: Hear, hear!

Senator Murray:

> The pious hypocrisy—

Senator Frith: Now, come on; no confessions, please!

Senator Murray:

> —about protecting the democratic right of the people of Canada to decide on the Free Trade Agreement is clever and seductive—and it may work. But it is totally specious. What we have is a small group of people, appointed as an act of political patronage and with responsibility to no one, exercising a power that is technically constitutional for a purpose that is totally partisan.

Senator Steuart: Shame!

Senator Frith: Party politics again!

Senator Murray: Gordon Robertson went on to say:

> The objective—

Senator Frith: Goodness sakes! Let's hear it for the U.S.S.R.—no party politics there!

Senator Murray:

> The objective of this archaic cabal is to frustrate the operation of a democratically elected government. And why do they do it? Because they think it will help their party at the polls.

Senator Frith: Is this still Gordon?

Senator Murray: This is Gordon Robertson speaking—

Senator Steuart: A great democrat from Saskatchewan!

Senator Murray: —and I invite the attention of honourable senators—

Senator Steuart: He couldn't be elected as dog catcher!

Senator Murray: —to the following sentence:

> As a test of the motives of the Liberals in the Senate, one might ask if they would have blocked the Free Trade Agreement if it had been a Liberal government proposing it. Obviously they would not.

Senator Sinclair: We wouldn't have signed the agreement.

Senator Murray:

> The democratic principle they so virtuously defend would somehow not apply.

Some Hon. Senators: Hear, hear!

Senator Frith: Is that the end of the Delphic pronouncements?

Senator Roblin: There is nothing Delphic about that;—

Senator Murray: As a matter of fact—

Senator Roblin: —it is straight to the point.

Senator Murray: —I will come back to Mr. Robertson in a few minutes.

Senator Steuart: The gospel according to Gordon!

Senator MacEachen: It shows how little he knows about politics!

Senator Roblin: He knows a lot about the Senate.

Senator Murray: My honourable friend took his advice for an awfully long time and, as I said, seldom went wrong.

Senator Flynn: But not when he was Minister of Finance!

Senator MacEachen: Sometimes.

Senator Murray: The third element of Mr. Turner's rationale is that there had been inadequate debate in the House of Commons. I have already set out the facts regarding the study and debate that the Free Trade Agreement—

Senator Steuart: You have already admitted that!

Senator Murray: —and the legislation have received in the other place and, indeed, here. In any case, the Senate, which is already quite familiar with the issues and has already spent considerable committee and house time on them, can give this legislation the careful consideration it deserves without frustrating and subverting the parliamentary process. Surely, the proper avenue for vindication and redress on the part of an opposition in the House of Commons is not to call upon the appointed Senate to block legislation.

Whatever conclusions one reaches about the rationale of the Right Honourable John Turner—and I believe the rationale is simply a contrivance—the conventions of Parliament and of the Constitution transcend any given issue. Proceeding in rigid adherence to the letter of the Constitution without having reference to its conventions would place Canada's government in an Alice-in-Wonderland situation. The Governor General could exercise personally various powers of the Crown with or without reference to the government of the day.

Senator MacEachen: Is this Murray speaking or is it Robertson?

Senator Murray: This is a statement of what the conventions are, and I am saying—

Senator Frith: But is this you talking?

Senator Murray: Yes, of course.

Senator Frith: It is not Gordon Robertson?

Senator Murray: Oh, did I not indicate where Mr. Robertson's thoughts had left off? Let me—

Senator Nurgitz: Read that again! We want to hear Robertson again!

Senator Murray: I wanted to come back to him anyway.

Senator Frith: He is so well plied on that side that you would like to hear him again!

Senator Murray: I have one more paragraph from Gordon Robertson to share with you.

Senator Molgat: Would the minister table the full text of what Mr. Robertson wrote?

Senator Murray: I will do so. I took a couple of pages—

Senator Molgat: Whatever you are quoting, you might as well table the whole document.

Senator Murray: I shall table the page with that quotation.

Senator Molgat: No.

Senator Murray: If you want the whole speech, I will obtain it.

Senator Molgat: I am sorry; I request the full document from which you are quoting.

Senator Murray: And you shall have it.

Senator Flynn: You don't have the right to ask for it!

Senator Molgat: Yes, I do!

Senator Flynn: Certainly not!

Senator Molgat: He is quoting from it!

Senator Murray: It certainly seems to have gotten under the honourable senator's skin.

Senator Flynn: He has a good imagination.

Senator Murray: The point I was making, honourable senators, is that if we acted or allowed various public people to act according to the strict letter of the Constitution, all kinds of extraordinary things—things we regard as abnormal in our parliamentary democracy—could take place. The Governor General could exercise various powers of the Crown with or without reference to the government of the day. The government could in any case be dismissed and replaced by fiat of Her Excellency.

By the way, since it is Mr. Turner who has embarked on a program to destroy some of the conventions of our parliamentary democracy, it is worth asking whether he would consider it legitimate to instruct the Governor General to hold up her assent; whether he would consider it legitimate to instruct the Governor General not to sanction—

Senator Frith: "Instruct" or ask?

Senator Murray: I will use my honourable friend's term, "ask"—would Mr. Turner consider it legitimate or would Senator Frith consider it legitimate—

Senator Doody: That is more to the point!

Senator Murray: Would Senator Frith consider it legitimate for his leader in the other place—a Privy Councillor and an officer of the House of Commons—to request the Governor General not to assent to some important legislation until an election was held?

Senator Frith: No.

Senator Murray: Would they consider it legitimate to have Mr. Turner call on the Governor General to do that?

Senator Gigantès: It would be legitimate and proper under section 4 of the Charter to use the authority—

Senator Murray: The honourable senator says that it would be legitimate. I am glad to have that statement on the record.

Senator Gigantès: According to section 4 of the Charter—

The Hon. the Speaker *pro tempore:* Order!

Senator Murray: It would be legitimate and proper—

Some Hon. Senators: Order!

Senator Murray: It would be legitimate—

Senator Frith: Do you mean that he should not ask—

Senator Murray: I am glad to have that from a confidant of Mr. Turner's and one of his strong supporters in this place, when he is not supporting Mr. Trudeau. We now have it from Senator Gigantès that it would be legitimate and proper for the Right Honourable the Leader of the Opposition in the other place to call upon Her Excellency the Governor General—

Senator Flynn: He knows; he is a former adviser to the King of Greece!

Senator Murray: —to refuse her assent to important legislation eminating from Parliament—

Senator Frith: No, no, no.

Senator Murray: —until an election was held.

Senator Frith: That is not what he said!

Senator Gigantès: I rise on a point of privilege.

Senator Murray: That was the honourable senator's—

Senator Gigantès: That is not—

Senator Murray: I know what my—

Senator Phillips: Order!

Senator Gigantès: The honourable senator is—

Some Hon. Senators: Order!

Senator Murray: I heard my honourable friend's answer, and I thank him for it.

Some Hon. Senators: Order!

Senator Barootes: Honourable senators, I rise on a point of order. Will the Senate allow him—

● (1650)

Senator Corbin: There is no order; sit down!

Senator Barootes: —to finish his statement?

Senator Stollery: Well, he asked him; he asked!

Senator Gigantès: I wish to reiterate that he asked the question, and I gave an answer. He is now misquoting me.

Senator Doody: You interrupted him. He asked a question.

Senator Gigantès: Article IV of the Charter gives the right to the House of Commons by a two-thirds majority to postpone elections beyond five years if Parliament accepts. Under such circumstances I claim that it would be legitimate on the part of the Leader of the Opposition to ask the Governor General not to accede to such a request from the Leader of a two-thirds majority in the House of Commons. That is what I said: that is all. He was misquoting me.

Senator Murray: The honourable senator is pushing forward—

Senator Flynn: They are experts on every topic!

Senator Murray: —and is expanding the area in which he thinks—

Senator Stewart: No; you cannot have heard him, for that is not what he said!

Senator Frith: That is not right at all!

Senator MacEachen: That is not right!

Senator Murray: The Honourable Senator Stewart should not get quite so agitated.

Senator Frith: You may not have heard him. That is not what he said.

Senator Murray: I heard my question, and I heard the honourable senator's answer.

Senator Frith: You did not, though.

Senator Murray: My question is whether, and under what circumstances, it would be legitimate, or Mr. Turner would consider it legitimate and honourable senators would consider it legitimate of Mr. Turner—

Senator Stollery: In legitimate circumstances.

Senator Murray: —to request the Governor General to withhold her assent to important legislation—

Senator Frith: And he gave such a circumstance.

Senator Murray: —until an election was held.

Senator Frith: That was not your question; you heard wrong.

Senator Murray: That was my question. I am glad that honourable senators have obviously been considering the matter of what advice the Leader of the Opposition would have to tender to Her Majesty's representative. I wonder if this has been a matter canvassed by their caucus, or by their constitutional experts, or by their political strategists, some of whom are in this house.

Senator Frith: On second thought, let us get back to Gordon! He was bad enough!

Senator Murray: If Mr. Turner has his way, the conventions of our parliamentary democracy will be falling all around us. This debate may be even more rigorous than I thought.

Senator Stollery: Where is Gordon?

An Hon. Senator: Where is Gordon?

Senator Murray: The letter of the Constitution, by which the Governor General not only could reign, but could rule, by which she could dismiss governments and by which we, the government, the federal Crown, could disallow provincial legislation, is not the way the world works anymore—nor should it.

In that connection let me now—

Senator Frith: Back to Gordon!

Senator Murray: —produce a paragraph from the Honourable Gordon Robertson.

Senator Frith: Here is Gordon!

Senator Murray: He said—

Senator Steuart: The Tories never loved Gordon so much when he was here!

Senator Murray: During the whole term of its office, Mr. Gordon Robertson served the Diefenbaker government as a deputy minister and as Commissioner of the Northwest Territories.

Senator Steuart: I well remember.

Senator Murray: He has served in the Privy Council under governments of various stripes.

Senator Frith: Our Siberia!

Senator Murray: He is one of our most respected—

Senator Steuart: He was a good Saskatchewan boy!

[Senator Frith.]

Senator Murray: —retired, senior public servants.

Senator Frith: Up until about one hour ago!

Senator Murray: This will take me 20 seconds. Speaking of this abuse of power by the Liberal majority in the Senate Mr. Robertson states:

> It is no excuse that something like the present ploy was perpetrated in 1913. A lot of things were considered acceptable 75 years ago that we do not tolerate today.

Senator Stewart: Like what?

Senator Murray:

> It was acceptable then that women should have no vote:—

An Hon. Senator: You have your answer!

Senator Murray: Does my honourable friend want to comment on that?

Senator Steuart: No.

Senator Murray:

> —they were not yet thought constitutionally to be 'persons.' An appointed, irresponsible, patronage-based Senate was acceptable in 1867—-and in 1913—-it is not acceptable today.

Senator Frith: It was in 1982. The chance was there to change it and it was not taken.

Senator Stollery: It was last year, too!

Senator Frith: It was acceptable six years ago.

Senator Murray: Honourable senators, I realize that some senators continue to speak perhaps nostalgically of the Senate's original intended role as representative of the regions. Some senators still conduct themselves in accordance with that.

Senator McElman: How did you fellows get in?

Senator Murray: But eight of the ten provinces—

Senator McElman: By Immaculate Conception?

Senator Murray: —support the Free Trade Agreement. In the only provinces where elections have been held since the signing of the Free Trade Agreement one ardent opponent of the Free Trade Agreement, Premier Pawley, was defeated, and the supporter of the Free Trade Agreement was elected.

Yesterday, as I do not have to remind my honourable friends opposite, the Government of Premier Buchanan, a staunch supporter of the Free Trade Agreement from the outset—

Senator Stollery: How many seats did he lose?

Senator Murray: —was elected for a fourth term in the province of Nova Scotia.

Senator MacEachen: He just lost 12 seats!

Some Hon. Senators: Hear, hear!

Senator MacEachen: A loss of 12 seats.

An Hon. Senator: Fifteen seats!

Senator Murray: My honourable friend wants to point out that Vince MacLean won a moral victory—

Senator MacEachen: No, I did not say that; I said that Buchanan lost 12 seats.

Senator Murray: I will put that on the record.

Senator McElman: He did not win Cape Breton!

Senator Murray: If honourable senators allow themselves to accept partisan direction from outside, what do we have to say of this supposed role of the Senate to represent the regions?

Some honourable senators continue to speak of the Senate as a chamber of sober second thought, but if the majority is to accept partisan direction from outside—

Senator Frith: For example, from the Prime Minister. Will you accept no direction from the Prime Minister?

Senator Murray: No. I am a minister of the Crown, of course.

Senator Frith: Will none of your colleagues accept it?

Senator Murray: I am governed by cabinet solidarity, as my friend well knows.

Senator Frith: That is partisan outside direction isn't it? It is outside direction. It is partisan. It is outside. It is direction. It has all the qualities.

Senator Walker: Be quiet!

Senator Frith: What about your colleagues? Will they take any directions from the Prime Minister?

Senator Murray: My colleagues will speak for themselves.

Senator Frith: They will take no direction from the Prime Minister?

Senator Flynn: According to you they want no one!

Senator Murray: My colleagues want this chamber to deal with this bill and to vote on this bill and not to try to block it for the duration of this Parliament.

If the Liberal majority in this place accepts partisan political direction even before the bill has arrived here, the deliberative role of acting as a chamber of sober second thought is a dead letter. It will have been sacrificed by the Liberal majority for partisan reasons.

Honourable senators, I believe that our duty in this appointed chamber is to debate this bill, give it second reading, approval in principle, give it detailed but expeditious consideration in committee, make a report with such comments as the committee sees fit, respect the conventions that have governed the conduct of this chamber in modern times and pass this bill into law.

Senator Frith: With amendments, perhaps? Send it back with amendments?

Senator Murray: Pass this bill into law—

Senator Frith: With amendments? Would amendments be in the same category?

Senator Murray: Our duty is to pass this bill into law and respect the conventions that have governed the conduct of this chamber.

Senator Frith: What about amendments? Well, that includes amendments.

Senator Murray: Why does my friend worry about amendments? He has already told us that unanimously he and his colleagues have agreed to block—

Senator Frith: We are listening to your description.

Senator Murray: I am telling the honourable senator that—

Senator Stollery: We are listening to your argument.

Senator Murray: —it is the duty of this house to pass the bill into law.

Senator Frith: Would amendments be acceptable?

Senator Murray: I have already told the honourable senator what I believe our duty is. Honourable senators cannot choose piece by piece.

Senator Stollery: It is another seamless web.

Senator Murray: This is an international agreement.

Senator Frith: A seamless web!

Senator Murray: We will see what honourable senators will do. I believe that honourable senators should honour and respect the modern conventions, that is, the conventions that have grown up in modern times in this place. Honourable senators are not here in the nineteenth-century concept to represent the property owners of the country.

• (1700)

On its merits, honourable senators, this is a bill which you have every reason to approve in order to master the economic challenges that face the Canadian people now and will in the coming years. The opponents of this bill have no alternative to the Free Trade Agreement. They have no alternative. In the immortal words of John Turner, they would "tear it up."

Some Hon. Senators: Hear, hear!

Hon. Philippe Deane Gigantès: Honourable senators, I compliment the Leader of the Government for his valiant effort to make a silk purse out of a sow's ear.

Senator Flynn: Are you speaking on behalf of the Liberal Party?

Senator Gigantès: Yes, sir. I belong to it.

I heard in his speech at least two dozen misstatements of fact and I want to read it very carefully before responding tomorrow in case I find even more misstatements of fact. In particular, I shall prove tomorrow that the three aims of the government—enhanced access, more secure access and adequate institutional provisions—were not achieved, and to prove that I shall use the sources that the Leader of the Government himself quoted and the people whose names he dropped all over his speech today.

On motion of Senator Gigantès, debate adjourned.

CANADIAN CENTRE ON SUBSTANCE ABUSE BILL

SECOND READING—DEBATE ADJOURNED

Hon. William M. Kelly moved the second reading of Bill C-143, to establish the Canadian Centre on Substance Abuse.

He said: Honourable senators, I recognize the lateness of the day, but I am rather anxious to move ahead with this bill and to have it referred to committee.

I am pleased, indeed, to speak today on Bill C-143, to establish the Canadian Centre on Substance Abuse.

Honourable senators, drug and alcohol abuse have been an area of deep interest and concern to me for some time. Like others of my generation, who dealt somewhat carelessly and cavalierly with lower, less damaging and less insidious forms of abuse, the spreading blight of drug abuse, in its nearly infinite combinations and permutations, presents to me a particularly frightening, bewildering and alarming phenomenon.

In Toronto, as in most other Canadian cities, we daily witness evidence of increased drug and alcohol abuse among all echelons of society, including children of 10, 9 or even 8 years of age, in our parks, on our streets, in schools, in the workplace—in fact everywhere. The impact on our social and economic fabric is potentially devastating and it is getting worse.

The statistics we have all heard are mind-numbing in themselves. According to the Addiction Research Foundation, using 1985 figures, about 3 per cent of students in grades 7 to 13 have used cocaine; about 25 per cent have used cannabis; about 2 per cent have used heroin; about 17 per cent have used stimulants of various types; about 3 per cent have used barbiturates; About 25 per cent have used tobacco; and over 70 per cent have used alcohol. I am talking now about students in grades 7 to 13.

Although the traditional focus for substance abuse is on drugs, alcohol remains, by far and away, the most important drug to worry about in terms of abuse. Furthermore, multiple drug use is common and cross-addiction is increasing.

The adverse impact of substance abuse includes an increased accident rate, lowered performance at work, physical ill health, psychological stress and pain, relationship problems at work and within the family, financial problems, loss of employment, loss of career opportunities, absenteeism from work or school and so on.

No parent or grandparent can feel immune from the scourge of drug abuse after following reports of the inquest into the tragic and completely senseless death of Benji Hayward, the 14-year old North York boy who drowned in Lake Ontario after taking LSD, marijuana and alcohol at a rock concert. Benji was from an evidently respected, stable, loving, middle-class family. Similar stories abound across Canada and leave us with the feeling: "There but for the grace of God go you and I."

No family, no segment of society and no area of the country is immune any longer from the relentless tide of drugs now readily available. I sense and fear that our institutions, already overburdened by more traditional demands and pressures, are simply not equipped to cope with the problem.

Honourable senators, in 1969 I became a founding director of CODA, the Committee on Drug Abuse located in Toronto. CODA is a non-profit organization funded in part by corporate donations and in part by one-time government grants. CODA's role is to bring drug and alcohol preventative education to schools, the workplace, teachers, parents and children. It also runs a reference service for drug abusers seeking help.

My experience with CODA taught me the realities, the very frightening realities, of drug and alcohol abuse in Canada and its pernicious and explosive impact on the individual, the family, our schools and our society.

For these reasons and with this background, I heartily endorse Bill C-143.

The bill originates from a commitment made by the Minister of Health in May 1987 upon the launching of the national drug strategy. "Action on Drug Abuse," as it is called, was designed as a $210 million initiative to reduce the harm to individuals, families and communities from abuse of alcohol and drugs. A report by Mr. David Archibald, the founder of the Addiction Research Foundation Council on Alcohol and Addictions, recommends ways in which the disparate resources can be drawn together to serve the country as a whole. A national consultative process on drug abuse was launched by the Department of Health and Welfare last year; and we have the review and report of the Standing Committee on National Health and Welfare in the other place. The report, issued in March 1988, is entitled "Booze, Pills and Dope" and makes fascinating, if somewhat frightening, reading.

The bill before us today would establish a crown corporation, funded—at least for the time being—exclusively by the federal government. Rather than being a "doer", an operational entity, the centre will act as a catalyst and facilitator, an "honest broker", to bring together the expertise, resources and views of the federal, provincial and territorial governments, as well as those of the private and voluntary sectors, research organizations, distinguished experts and so on.

The centre would promote consultation and cooperation among all the players in the substance abuse field; it would promote information exchange, develop knowledge and expertise on substance abuse, perform policy and program analysis and development and promote knowledge and understanding of efforts and activities in other countries and through international organizations.

The business and affairs of the centre will be the overall responsibility of a board of directors, consisting of a chairman and up to 14 individuals, with up to 6 appointed by the Governor in Council and the remainder appointed by the board itself.

The chairman will doubtless be a person of national stature with expertise in the field, appointed by the Governor in Council. To oversee the day-to-day operations and staff of the centre, the board will have the power to appoint a president, subject to approval by the Governor in Council.

Honourable senators, I could go on at some length explaining the technical details of the bill. I suspect, however, that this would not be a productive use of our time, particularly at this hour. The structure and organization of the centre follow the approach for all federal crown corporations and are entirely consistent with Part XII of the Financial Administration Act that governs such matters. I feel, therefore, that I need to say no more on such aspects.

• (1710)

Let me close by noting that this bill was tabled in the other place on July 21 of this year and moved quickly through the system with the support of all parties. We should do no less here. I therefore commend this important bill to your quick and sympathetic attention. Its passage will be a step—albeit a small one, but a step all the same—to counter the scourge of substance abuse that, directly or indirectly, threatens and imperils us all.

On motion of Senator Haidasz, debate adjourned.

INDIAN ACT

BILL TO AMEND—SECOND READING

On the order:

Resuming the debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Bazin, for the second reading of the Bill C-123, An Act to amend the Indian Act (minors' funds and surviving spouse's preferential share).—(*Honourable Senator Marchand, P.C.*).

Hon. Len Marchand: Honourable senators, I have not had a great deal of time to look at this particular bill, but in reviewing it I have not seen any reason to hold it up. It does make some improvements to the Indian Act in the way that the administration of certain minors' trusts are administered. There has been some controversy in our community about this, but basically it has all been ironed out. Amendments were passed in the other place that were put forward by the Indian community.

I should like the members of a Senate committee to be given an opportunity to question witnesses and have them explain in detail what exactly is contained in the bill. Therefore, honourable senators, I offer my cooperation, as I am sure the opposition will, in moving this bill along.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

CRIMINAL CODE

BILL TO AMEND (PROTECTION OF THE UNBORN)—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Macdonald (*Cape Breton*), for the second reading of the Bill S-16, An Act to amend the Criminal Code (protection of the unborn).—(*Honourable Senator Anderson*).

Hon. Margaret Anderson: Honourable senators, I wish to speak for a few minutes on Bill C-16 and to support the stated purpose of the bill, which is "to reassert society's vital interest in the unborn children."

I am sure no one is in favour of abortion as a form of birth control. Everyone would agree that prevention is the answer and it is to be hoped in the not too distant future Canadian society as a whole will oppose abortion for any reason other than the protection of the mother's life. At the same time, however, society will have to accept its responsibility to assist and encourage those women who have nowhere to turn for help.

Abortion itself is not easy. Under the best of conditions there can be serious physical as well as emotional problems. The only answer is prevention, and through the ages, and in all cultures, there has been a continuous drive towards this goal.

It is interesting to note that the earliest recorded medical methods for preventing conception are contained in Egyptian scrolls of about 1850 B.C.

Today, unwanted pregnancies can be avoided. Effective means of contraception are available and it is the responsibility of men and women to take advantage of these methods for family planning. And then, too, there are safe medical procedures to accommodate husbands and wives who do not wish to have children, or any more children as the case may well be.

In my opinion, there is little reason for mature men and women to be responsible for an unwanted pregnancy. For those women who are alone, without financial means or the support of a caring husband or concerned family, pregnancy can be a terrifying experience, and, whether they want it or not, abortion may appear to be the only way out. It is at this point that society, through government, must be ready to offer meaningful support through both financial help and experienced counselling.

Some persons think all babies should be wanted, and, if they are neither wanted nor planned for, terminating a pregnancy is justified. To have every baby wanted and planned for is an unattainable and Utopian goal. At some time or other in the earlier stages I am sure many women would be delighted to be free again.

For that matter, how many of us today know whether we were wanted or not? In past days, the days of the large families, when men and women had no recourse to contraceptives, how many women with three or four or even five toddlers, and with little or no help, would have jumped for joy

at discovering they were expecting again? I am sure a great many must have been absolutely horrified. But I am also sure that when their babies arrived, they were just as precious and as much loved and wanted as every other baby in the family.

As I said at the beginning, I fully support the main purpose of Bill S-16, "the Protection of the Unborn". However, I am completely at odds with the severity of the penalties outlined in the bill, especially as they deal with women. Moreover, I cannot see how they could possibly be enforced. There are too many questions to be answered.

In many cases, the woman herself is a victim, perhaps young, unmarried and deserted by her partner, or with a partner who insists she have an abortion and helps her pay for it. If the law imposes a sentence, should not that sentence be shared?

Perhaps she is a teenager whose parents arrange for an abortion with little or no regard for her wishes. Their motives are good: social and family pride and, above all, love and ambition for their daughter, or for their son whose girlfriend may be in the same situation. Everyone can understand the dilemma of the parents in these circumstances, but one has to remember that there not only is the son's or daughter's future at stake, but a grandchild's life is in the balance. If this were declared a criminal act, how could any court place all the blame on the young woman?

And then there are those women—and always were, I am sure—who break every health rule in the book hoping for a miscarriage. This would be called "wanton disregard for the safety of the unborn." But how could legislation be enforced?

In the past, before contraceptives were available, many women used drastic methods against their own persons to try to end pregnancies—no doubt in some cases with the encouragement of their husbands. Some of these old remedies have gone by the board, but, legally, what could or can be done about it?

• (1720)

In the final analysis, the only solution is for society itself to condemn abortion by stressing the value of family, of children, and of all human life.

In closing, I wish to repeat that I am in favour of the main thrust of Bill S-16, which is to protect the unborn. However, only if major changes were made to the extremely severe penalties provided for, could I support the bill in its entirety.

On motion of Senator Haidasz, for Senator Turner, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(See p. 4258)

LOBBYISTS REGISTRATION BILL

REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

WEDNESDAY, September 7, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-SECOND REPORT

Your Committee, to which was referred Bill C-82, an Act respecting the registration of lobbyists, has in obedience to the Order of Reference of Wednesday, July 27, 1988, examined the said Bill and now reports the same without amendment but with the following comments:

Believing that the principles outlined in the preamble of the Bill are worthy objectives and essential to ensure that public confidence in our democratic system of government is maintained and fostered, the Committee is prepared to recommend the passage of Bill C-82 without amendment. At the same time, a majority of the Committee has concerns regarding the scope and language of the Bill.

The first concern relates to the Bill's failure to specifically address the information gathering activities of lobbyists. Since information gathering is a significant portion of a lobbyist's work, the Committee feels that some attempt should have been made to include in the Bill those information gathering activities that are intended to result in an attempt to influence government decisions.

Another of the Committee's concerns is derived from the division of lobbyists into two tiers. Tier II lobbyists, that is, individuals in the employ of organizations who spend a significant part of their duties communicating with public office holders, unlike their Tier I (third party paid) counterparts, are not required to disclose the subject-matter of their communications with public office holders.

It has been suggested that there is no need for Tier II lobbyists to disclose the subject-matter of their approaches to public office holders because their names alone will give an indication of the issues of concern to them. However, we have difficulty accepting the contention that a business card will provide all the information that the Canadian public and public office holders should know about the lobbying activities of these lobbyists. A Tier II lobbyist may have an interest in several subjects, some of which would not be readily apparent from the name of an employer.

Tier I and Tier II lobbyists are also treated differently when they attempt to influence the awarding of government contracts. A Tier I lobbyist would be required to file a return with the Registrar General while no filing would be required of a Tier II lobbyist. On a practical level, this avoids the onerous requirement of having every salesperson who approachs government on routine business register his activity.

Nonetheless, the Committee is concerned that corporations that do not hire a Tier I lobbyist to assist them in their attempts to influence the awarding of a government contract will be able to conduct their activities in this regard free of public scrutiny.

The Committee is also concerned with the Bill's ambiguous language. The word "policy" and the phrase "in an attempt to influence" are examples of such ambiguity.

Our last concern relates to the interpretation of paragraph 5 (2) (d) of the Bill. If lobbyists are required to file a return for each communication, administration of the Bill will become overly burdensome. The Minister assured the Committee that this is not the government's intention. We also recognize that regulations will be important to ensure effective administration of the Bill.

Finally, the Committee takes some comfort in knowing that, after three years, a Parliamentary committee will review the administration and operation of the Bill. At that time, an opportunity will exist to address the concerns raised in this report.

Respectfully submitted,

NATHAN NURGITZ
Deputy Chairman

APPENDIX "B"

(See p. 4258)

THE SENATE OF CANADA

THE CANADIAN REGULATORY PROCESS FOR PESTICIDES

Twelfth Report

Standing Senate Committee on Agriculture and Forestry

SEPTEMBER 1988

MEMBERS OF THE COMMITTEE

The Honourable Daniel Hays, *Chairman*

The Honourable E.W. Barootes, *Deputy Chairman*

and

The Honourable Senators:

Argue, P.C.	Olson, P.C.
Bielish	Riel, P.C.
Fairbairn	Roblin, P.C.
* MacEachen, P.C. (or Frith)	Rossiter
Marchand, P.C.	Sparrow
* Murray, P.C. (or Doody)	Spivak

* Ex officio members

Note: The Honourable Senators Bonnell, Hastings, Kenny, Macdonald (*Cape-Breton*), Macquarrie, Muir, Roblin and Sherwood, also served on the Committee at various stages.

Andrew N. Johnson

Clerk of the Committee

WEDNESDAY, September 7, 1988

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

TWELFTH REPORT

Your Committee, which was authorized by the Senate on March 19, 1987, to send for, hear and consider evidence of a person or persons on matters which are within the Committee's mandate as described in Rule 67(1)(*n*) of the *Rules of the Senate*, has proceeded to a study on the Canadian regulatory process for pesticides, and now presents its report as follows.

DAN HAYS
Chairman

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EXECUTIVE SUMMARY

Alachlor's recent loss of its registration under the *Pest Control Products Act* has highlighted certain problems with the regulation of pesticides in Canada.

The Committee believes that, as in the United States, health and environmental information on pesticides should be made available to the public, while true proprietary information should be protected:

> **Health and environmental information used in the registration of pesticides should be made public, while at the same time ensuring that the data are protected from unauthorized use.**

Similarly, any review board appointed in connection with a decision not to register a pesticide, or to cancel or suspend a registration, must have all necessary information:

> **Any review board appointed pursuant to the *Pest Control Products Regulations* must have full access to information on alternative products, or products of the same class.**

Information should also be made available to the public in connection with the review of the registration of a pest control product; availability of position documents at various stages of the review process would allow all interested parties to know the government's position, and on what it is based, and to provide comments prior to the next stage:

> **Documentation should be published prior to the cancellation or suspension of a pesticide registration.**

The *Pest Control Products Act* and Regulations are silent about the weighing of risk-benefit considerations in deciding whether a particular pesticide should be registered, or a registration cancelled or suspended. Such an analysis should be explicitly required, especially in respect of comparable or alternative products:

> **The *Pest Control Products Act* and Regulations should clearly specify that, where minimum standards have been met, risk-benefit or comparative risk-benefit analysis is to be carried out with respect to (a) the registration of a pesticide and (b) the cancellation or suspension of a registration.**

As pesticides are by their nature toxic, it is important that users be educated on the safe handling of them. While this is primarily a matter of provincial jurisdiction, the Committee recommends that:

The federal government should encourage provincial initiatives leading to common regulation of the use of certain pesticides only by licensed users.

The roles of the various parties involved in the pesticide regulation and review board processes must be clarified:

The decision-making hierarchy must be set out clearly, and the decision must be final at each stage, subject to any appeal.

A review board appointed under the *Pest Control Products Regulations* acts only in an advisory capacity. While it would be possible to give more authority to a review board, it is important that there remain a strong element of political accountability:

The ultimate decision regarding the registration of pesticides, or the cancellation or suspension of a registration, should remain at the political level, with either a Minister or the Cabinet.

THE CANADIAN REGULATORY PROCESS FOR PESTICIDES

INTRODUCTION

The development and use of pesticides (including all types of insecticides, herbicides, fungicides and other such products) has been a major benefit to Canadian agriculture and forestry. Pesticides, however, often have unintended results and carry risks to human beings and to the environment.

In Canada, the use of pesticides is regulated, at the federal level, primarily by the *Pest Control Products Act*, R.S.C. 1970, c. P-10, as amended, and the Regulations thereunder. As a result of recent events, however, certain problems with the Act have become apparent. The Committee feels that it is imperative that these concerns be addressed at the earliest opportunity.

The use of chemical pesticides has expanded rapidly since the Second World War. Over the past few years, there have been a number of studies and reports regarding their use in Canada. In 1981, Dr. Ross Hall prepared the paper "A New Approach to Pest Control in Canada" for the Canadian Environmental Advisory Council. In 1984, Professors Liora Salter and William Leiss submitted their report "Consultation in the Assessment and Registration of Pesticides" to the Minister of Agriculture. Other groups, such as the Canadian Council of Resource and Environment Ministers (CCREM) and the Nielsen Task Force, have also looked at the registration and use of pesticides in this country. In 1987, the Law Reform Commission of Canada issued a study paper entitled "Pesticides in Canada: An Examination of Federal Law and Policy." It should also be noted that this Committee, in connection with the Senate report "Soil at Risk - Canada's Eroding Future", in 1986 issued a report on herbicide pricing that touched on this topic. All of these studies and reports have included comments on the existing system for the registration and use of pesticides and ways in which it could be improved.

The immediate cause of the Committee's current inquiry is the case of alachlor. Alachlor is a herbicide of the chloracetanilide chemical family used to control annual grasses and many broad-leaved weeds in such crops as corn, soybeans and canola. It has been widely used, particularly in Ontario and Quebec, on corn and soybean crops. While it provides full season control of weeds which pose major problems for these crops, it does not persist into subsequent growing seasons.

Alachlor was first registered for use under the *Pest Control Products Act* by Monsanto Canada Inc. in 1969, and was marketed under the brand name "Lasso." In 1977, concern arose about the validity of certain toxicological studies used to support the registration of many pesticides, including alachlor, and, as a result, new toxicological studies were requested by the Department of Agriculture. Monsanto submitted replacement studies for alachlor in 1982. As a result of its analysis of these new data, in June 1984 Health and Welfare Canada recommended to the Minister of Agriculture that the use of alachlor be cancelled because of its carcinogenic risk. At the same time, Health and Welfare Canada concluded that metolachlor, marketed under the brand name of "Dual" by Ciba-Geigy Canada Ltd., had not demonstrated carcinogenic activity under the test conditions, even though it was structurally similar to alachlor (Issue 25: 9,13).

In February 1985, therefore, the Minister of Agriculture cancelled alachlor's registration on the advice of Health and Welfare Canada. To accommodate farmers, a temporary registration was granted to Monsanto for the balance of the calendar year. Monsanto applied for a review of the Minister's decision, as provided for in section 23 of the *Pest Control Products Regulations*. The Minister of Agriculture subsequently appointed the independent five-member Alachlor Review Board, which heard evidence from 53 witnesses on safety, merit and value issues relevant to the ban on alachlor. The Alachlor Review Board, in its report of November 1987, recommended that the registration of alachlor be retained, subject to a yearly review. The Board felt that the existence of metolachlor, which was considered to provide equivalent benefits with less potential risk, had been a factor in the Minister's ban on alachlor; in the Board's view, however, metolachlor was also an animal carcinogen (Alachlor Review Board Report, p. 6). Notwithstanding this recommendation, in January 1988, the Minister of Agriculture announced that the registration of alachlor would not be restored, citing risks to farmers through exposure to the chemical and the availability of an acceptable substitute in metolachlor.

In February 1988, Monsanto filed an application with the Federal Court of Appeal to review and set aside the Minister's decision and to order the Minister to accept the Board's recommendation. Agriculture Canada responded by filing a motion challenging the Court of Appeal's jurisdiction to hear Monsanto's application. In April 1988, the Court of Appeal ruled that it did have this jurisdiction.

The alachlor case raises important issues and concerns that the federal government must address. Some of these are discussed in the report of the Alachlor Review Board itself. In addition, the Pest Management Advisory Board commissioned a legal analysis of the review board process by Professor Wade MacLauchlan of Dalhousie Law

School; this study, received by the Pest Management Advisory Board in September 1986, has been submitted to the Minister of Agriculture, but has not yet been made public. In addition, the Pest Management Advisory Board has provided the Minister with a number of suggestions for improving the process, while the House of Commons Standing Committee on Agriculture issued a report on the regulatory process for farm chemicals and pesticides, in particular alachlor, on 10 May 1988.

In response to the concerns raised by the alachlor case, the Senate Committee convened several meetings with interested parties to review the pesticide registration process and the review board procedures. The Committee appreciates the assistance of witnesses, and has carefully considered their views.

The Committee was urged by Monsanto Canada Inc. and other witnesses to ask the Minister of Agriculture to reconsider his decision and to renew the registration of alachlor in Canada. The Committee does not have ready access to the scientific, economic and other expertise necessary to carry out its own review of alachlor. Its observation is that the process set out under the *Pest Control Products Act* has been followed, whether one agrees with the final decision or not. Further, it is noted that the Minister's decision is currently the subject of proceedings in the Federal Court of Appeal. Accordingly, the Committee has chosen only to assess the process.

Beyond issues specific to alachlor, the Committee has concerns regarding the entire process for the registration and review of pest control products in Canada. It has been shown to be flawed and unsatisfactory; it needs to be improved if the Canadian public is to have confidence in the system and if the various interests involved are to be well served. This report will address some of the Committee's concerns.

THE PESTICIDE REGULATION PROCESS

Constitutional jurisdiction for the regulation of pesticides in Canada is shared by the federal and provincial levels of government. In general, it may be said that it is divided between federal control over the registration, classification and labelling of such products, and provincial control over their actual use through licences, permits and related regulatory techniques.

The regulation of pesticides in Canada has been influenced by three general objectives:

a) to promote agriculture;
b) to protect the public from poisons and adulterated food; and
c) to protect the environment from pollution and contamination by toxic substances.(1)

Historically, Health and Welfare Canada has played a prominent role in the regulation process. The first Canadian pesticides were homemade. Farmers generally bought chemicals in bulk, prepared their own mixtures, and applied them to their crops. They were free to sell these crops for food, providing there was insufficient residue to qualify them as adulterated within the meaning of the *Food and Drug Act*. The department protected the public by ruling that only pharmacists were able to sell the chemicals.

With the development of a commercial pesticide industry in the 1920s, authority over pesticides shifted from Health and Welfare Canada to Agriculture Canada. Farmers sought legislative protection from the sale of ineffective products and, in response, the *Agricultural Pests' Control Act* was passed in 1927.

This was the first Act to recognize "pesticides" as an independent matter for regulation. Since it was designed to protect farmers from misrepresentation, responsibility for the Act was given to Agriculture Canada. Farmers preparing their own mixtures generally knew the ingredients and what precautions should be taken. Commercial pesticides, however, were marketed under brand names and often gave no indication of the active ingredients.

Under the *Agricultural Pests' Control Act*, a manufacturer registered its brand and guaranteed that it would contain the amount of active ingredient claimed. Registration could be refused on four bases, including a decision by the Minister of Agriculture that the pesticide, when used according to directions, was generally detrimental or seriously injurious to vegetation (except weeds), domestic animals or public health. Essentially, any pesticide could be marketed, provided that it was effective and not acutely toxic to non-target organisms. The Act did not require that directions for use of the pesticide be placed on the label, or be otherwise available to the user, although one section did prescribe what the label was to show. The application for registration had to include three copies of the directions for use, which had to include: the time, frequency and method of application; the quantity to be used; and the purposes for which the pesticide was intended.

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(1) Jill A. Browne, *Pesticide Regulation in Canada The Federal Registration Process and Its Development Since 1927*, Environmental Law Centre, Alberta Law Foundation, April 1985, p. 2.

The registration system enacted under the *Agricultural Pests' Control Act* largely remained unchanged until 1969. The main purpose of registration continued to be the protection of farmers from ineffective pest control products by prohibiting misrepresentation of a registered brand's ingredients or effectiveness. When an application was made for a new brand's registration, the government had the authority to test the product's effectiveness at the applicant's expense, although such testing was not mandatory.

In 1969, the House of Commons Standing Committee on Agriculture considered four related bills, including a new *Pest Control Products Act*. Whereas previously the legislation had regulated the composition, packaging and labelling of pesticides, greater public concern regarding their potential harmfulness was reflected in amendments that added manufacturing, handling and advertising to the activities covered under the Act and extended regulatory authority. In Committee hearings to discuss the proposed amendments, chemical manufacturers lobbied for an appeal process should an application to register a product be denied. Agriculture Canada, feeling registration was a "technical" rather than a "judicial" decision, determined that an appeal mechanism was inappropriate, and instead provided for a hearing into a refusal of registration.

The *Pest Control Products Act*, which has remained essentially unchanged since 1969, is the principal legislative mechanism controlling pesticides in Canada. Section 3(1) of this Act, administered by Agriculture Canada, prohibits the manufacturing, storing, displaying, distributing or using of a control product "under unsafe conditions." The importing and selling of such products in Canada are also prohibited unless the products have been registered, packaged and labelled according to certain prescribed conditions. There are also certain other regulatory requirements:

a) the Minister of Agriculture must register all control products imported, sold or used in Canada;

b) the Minister can specify the scientific information that must be submitted in support of a registration application;

c) given labelling requirements, the Minister can prohibit any use of a pesticide that is inconsistent with such labelling; and

d) the Minister may authorize record-keeping and inspections, and undertake a variety of enforcement actions; these actions may be administrative, such as seizures and detentions, and quasi-criminal, including prosecutions.

All pesticides, with certain limited exceptions, must be registered under the *Pest Control Products Act* prior to sale in Canada. According to section 18(c) of the *Pest Control Products Regulations*, registration may be granted only if the Minister of Agriculture is of the opinion "... that the control product has merit or value for the purposes claimed when...used in accordance with its label directions." In addition, sections 18(d)(i) and (ii) provide that the product's use must not lead to an unacceptable risk of harm to a variety of persons, animals or things, including things on which the product is intended to be used, or the public health, plants, animals or the environment.

In order to allow the Minister of Agriculture to assess the safety, merit and value of the product, section 9(2)(b)(i) of the *Pest Control Products Regulations* sets out that the applicant must provide scientific test studies and results regarding:

a) control product effectiveness;

b) occupational safety and exposure;

c) the effects on host plant, animal, article or non-target organisms;

d) control product and residue persistence, retention and movement;

e) the analysis methods for detecting the control product and its residues in food, feed and the environment;

f) the detoxification or neutralization methods with respect to the control product in soil, water, air or articles;

g) the disposal methods for the control product and its empty packages; and

h) information concerning the storage, display, stability and compatibility of the control product with other products.

An application for a pesticide to be used on products intended for human consumption must be supported by test results showing the effects of the control product or its residues on test animals. Animal tests to determine the pesticide's safety for human health include studies of acute toxicity, and short-term, long-term and special effects. These results will allow the Minister to determine human or animal risks associated with the product's use. Tests are conducted on both the active ingredient and the formulated control product to assess whether the toxicity of the active ingredient is affected by the inert ingredients. These data are reviewed by the Evaluation Section of the Pesticides Directorate of Agriculture Canada, which administers the Act. To aid applicants in meeting the requirements for technical

data under the Act and Regulations, Agriculture Canada issues guidelines and trade memoranda. Although there is no legal requirement for other government departments to do so, some are requested by Agriculture Canada to review and comment on aspects of the scientific data; such departments include Health and Welfare Canada, Environment Canada and Fisheries and Oceans Canada. Although these departments may give advice from their own expertise, the final decision with respect to product registration is made by the Minister of Agriculture.

Agriculture Canada, beginning in September 1980, adopted a product-specific registration policy; this evolved in response to industry pressure to recognize data ownership and concern about possible microcontaminants in active ingredients. This policy, which more directly focuses on the active ingredient and the final formulated control product, links each registered product to a specific producer of the active ingredient and a specific data package. The generic approach previously used assumed that all sources of a chemical were equal, regardless of the manufacturer. Different manufacturing processes, however, can affect product quality. Moreover, under the generic approach, competing firms were able to obtain registration for similar products by using data provided by other companies. Manufacturers were formerly reluctant to develop further, and often costly, safety studies. With the adoption of the product-specific registration policy, however, they have a greater incentive to do so. The results are relevant to their product only and for their sole use; competitors must conduct their own research studies. This policy may, however, represent a barrier to entry into the industry and thereby limit competition. In addition, it may lead to a duplication of research on a particular chemical, and thereby possibly waste resources. It has been suggested that payment of compensation for the use of similar data might be a more effective and more equitable policy.

In December 1983, the Minister of Agriculture, responding to demands for meaningful public participation in decisions that could affect health and the environment, announced his desire to integrate consultative processes into the pesticide regulation procedure. Two consultants were commissioned to recommend ways in which this could be effected; their efforts resulted in a report entitled "Consultation in the Assessment and Registration of Pesticides" (the "Salter Report"), which was submitted to the Minister of Agriculture in March 1984. A principal recommendation of this report was the establishment of an independent Pest Management Advisory Board.

The Minister of Agriculture in July 1985 announced the creation of this Board, whose fundamental role was the development of a " representative, consensus-building process to meet the demand for meaningful participation in the pesticide regulatory

process."(2) The Pest Management Advisory Board lacks separate enabling legislation establishing its role; its legal status is based on the personal service contracts between Agriculture Canada and the members of the Board, a full-time Board Chairman and two part-time members, one selected from the science community, the other from the public sector. The Board's function is to use consultative processes to develop recommendations for the Minister of Agriculture on broad policy questions relating to the pest management process and to assess specific pest and pesticide issues, where warranted. In its working paper, the Pest Management Advisory Board noted that:

a) the Board has no coercive or regulatory decision-making powers, and acts in an advisory capacity when making recommendations;

b) the Board is not designed to be a second hurdle in the pesticide registration process; and

c) the Board must be, and must be seen to be, independent in order to make effective recommendations, even though it is accountable to the Minister of Agriculture.

The Board is not restricted, however, to studying concerns solely within the jurisdiction of Agriculture Canada; the Canadian Forestry Service, Environment Canada, Health and Welfare Canada and Fisheries and Oceans Canada are also involved in pest management and could also lie within its scope.

THE PESTICIDE REVIEW PROCESS

The pesticide process has been primarily directed to the registration of new chemicals and pesticides. It has been pointed out, however, that many pesticides that are currently registered for use in Canada would not be granted registration today; this is partly because of present enhanced testing procedures and higher standards, especially with respect to environmental and health effects. Alachlor was one of a series of chemicals whose registration was called into question when it was discovered that the original tests supporting the application for registration may have been fraudulently prepared. The Department of Agriculture has begun a re-evaluation of all registered chemicals (Issue 28:

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(2) *The Role of the Pest Management Advisory Board: A Working Paper*, Pest Management Advisory Board, Spring 1986, page 6.

19-20). As the Law Reform Commission of Canada noted in its 1987 study paper on pesticides, however, this process has been criticized as being too slow and not being priorized properly (pages 66-68).

To date, most of the regulatory action against registered chemicals has been against specific uses, rather than against their registration *per se*. There have been very few product suspensions or cancellations under the *Pest Control Products Act*; indeed, there have been only three instances, since 1972, when the *Pest Control Products Regulations* were promulgated, in which review boards have been empanelled to hear a matter (leptophos, phosphamidon and alachlor). Of these, the alachlor case has been by far the most significant and contentious.

Clearly, the decision to suspend or cancel the registration of an existing product is fraught with difficulties. Unlike a refusal to register a new product, a decision to suspend or cancel a registration is bound to be disruptive. The manufacturer has become accustomed to selling his product, and has perceived rights of a sort; users have become accustomed to using the product, and have often become dependent on it to a greater or lesser extent. It is unlikely that such a decision is made lightly, but that seldom means that the affected parties are any more acquiescent. In the case of alachlor, for instance, there were concerns that cancellation would reduce competition in the market, thereby potentially increasing the cost of pesticides and making Canadian crops less competitive with the crops of countries where alachlor was still used.

The Regulations under the *Pest Control Products Act* permit a registrant to request the appointment of a review board if the Minister of Agriculture refuses, suspends or cancels registration. The Minister must then appoint a review board to hold a hearing (section 24) and that board must give the registrant "and all other persons who may be affected by the subject matter of the hearing an opportunity to make representations to the Board ..." (section 25(1)). The board must prepare a report, recommendations and its reasons as soon as possible after the hearing and file them with the Minister of Agriculture and the registrant (section 25(2)(a)), as well as send all the documents from the hearing to the Minister (section 25(2)(b)). The Minister can, after considering the board's report, take any action he deems advisable and notify the registrant of his decision (section 25(3)).

The review board's mandate is to "inquire into the subject matter of the application" and to "make a report containing its recommendations respecting the subject matter of the hearing." Moreover, it appears from the wording of the Regulations, and from

experience in the alachlor case, that the issues reviewed by the board are to be determined largely by the party requesting the hearing.

Lack of experience with the review board process no doubt accounts for some of the difficulties encountered in the alachlor case. For instance, there was a lengthy period between the request by Monsanto for a review board (4 March 1985) and the empanelling of the Board (13 November 1985). As well, the Review Board's report was not made public until November 1987, over two and a half years after the Minister's original announcement that he was cancelling the registration of all alachlor products in Canada. The Review Board had to establish its own procedures for dealing with confidential information and the conduct of hearings. Professor Hajo Versteeg, Chairman of the Pest Management Advisory Board, told the Committee that he would make a number of recommendations to do things differently in the future, including appointing only three members, hiring experts as required rather than appointing them as members of the review board, and holding hearings without adjournments.

The Alachlor Review Board held 41 days of public hearings and heard evidence from 53 witnesses on safety, merit and value issues relevant to the decision to cancel the registration of alachlor. There were 10 parties to the hearings, most of whom were represented by counsel, and some of whom received government funding assistance. As Mr. Byron Beeler of Ciba-Geigy told the Committee, "The timeframe and turnaround for such a review should be reduced considerably as the cost for all participants can rise to a staggering amount" (Issue 28:27).

Despite the enormous investment of time, money and energy in this process, the Minister of Agriculture ultimately chose to disregard the Review Board's recommendations. In doing so, he relied on section 25(3) of the *Pest Control Products Regulations* which provides that:

> After considering the report of the Board, the Minister may take such action with respect to the subject matter of the hearing as he deems advisable and shall notify the person who applied for the hearing of any action so taken.

The Review Board itself stressed that it merely made recommendations to the Minister of Agriculture. As its Guide for Parties stated, "The decision regarding whether or not a Certificate of Registration should be issued is the ultimate responsibility of the Minister, after considering the report of the Board."

The fact that the Minister chose not to follow the recommendations of the Review Board was obviously disappointing to Monsanto and to various users of alachlor. A number of witnesses told the Committee that, though they had been prepared to abide by whatever decision the Review Board made, they found it difficult to accept that the Minister could reach a different decision than the Review Board.

AVAILABILITY OF AND ACCESS TO INFORMATION

One of the most difficult issues in the regulation of pesticides is the availability of information. As discussed above, pursuant to the *Pest Control Products Act*, applicants are required to submit many studies and tests to the federal government in support of an application for registration. There is no provision for the disclosure of such information, and the industry takes the position that it should remain confidential, with the federal government seen as the trustee of such information, rather than its owner. This has meant that even provincial government agencies have had difficulty in obtaining information from the federal authorities. The confidentiality of pesticide data has also been justified on the basis of the common law protection of trade secrets and under the federal *Access to Information Act*, S.C. 1980-81-82-83, c. 111, although neither basis has been definitively demonstrated.

In the United States, federal pesticides law has been amended to override protection of trade secrets by providing for the release of health and safety data. Compensation schemes or exclusive use provisions protect the party initially submitting data.(3) The U.S. position is that information about pesticide health effects should be made available to the public. In Canada, environmental groups have recommended amendments to the *Pest Control Products Act* to authorize public access to pesticide health and safety data. The Law Reform Commission's 1987 Study Paper on Pesticides recommended that the Act be amended generally:

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(3) See, for example, the United States *Federal Insecticide, Fungicide and Rodenticide Act*, 7 U.S.C., ss. 136 (1978), s. 3(c)(1)(d). These provisions have generally been upheld in the courts: see *Ruckelshaus* v. *Monsanto* Co. (1984) 14 E.L.R. 20539 (U.S.S.C.).

a) to mandate public access to, and government and agency sharing of, pesticide health and safety data (concerning both active and inert ingredients); and

b) to authorize compensation or a period of exclusive use to protect the initial data submittor from competitors seeking access to information, including trade secrets.

Clearly there are valid commercial reasons for giving protection to proprietary information. For example, a competitor might use certain information to obtain registration of his own product without having to conduct and submit the necessary toxicological testing. The costs of developing and registering a new pesticide are enormous; registrants, therefore, are entitled to consideration. Nevertheless, commercial interests must be balanced against the public interest. The decision to register and permit the use of a pesticide in Canada is not simply a matter between the manufacturer and the government, or between the manufacturer and the users. Because of the potential environmental effects of pesticides, the public has a valid interest in their registration and in obtaining access to health and safety data. Information relating to manufacturing and quality control may be more properly withheld from public scrutiny.

The 1984 Salter Report contained a number of recommendations designed to make information regarding pesticides more available to the public. We understand that most of these recommendations have been implemented. Still, more needs to be done. The Minister and departmental officials were quoted as justifying the decision not to re-register alachlor by saying that if the public had access to all the data, it would understand the decision. There appears, however, to be no provision for such access, so the credibility of the whole process is questionable. Decisions made behind closed doors, or on the basis of "secret" data, can raise the spectre of unfairness and of political interference. The Committee, therefore, recommends that:

Health and environmental information used in the registration of pesticides should be made public, while at the same time ensuring that the data are protected from unauthorized use.

The confidentiality of documents also arose in the course of the hearings by the Alachlor Review Board, in connection with both alachlor and metolachlor. The Review Board established a procedure for dealing with documents where a claim of confidentiality was asserted: such material was made available to the other parties to the hearing upon their undertaking not to disclose the information. The system appears to have worked reasonably well, except with respect to metolachlor, where the registrant, Ciba-Geigy

Canada Ltd., arguing that the product was not under review, would not agree to the tabling of toxicological data on metalachlor. The company did eventually permit a summary of the data package to be introduced before the Alachlor Review Board.

It is understandable that two groups of experts may arrive at different conclusions on the basis of the same information, particularly in the worlds of science and economics. In the case of alachlor, however, the Review Board and Health and Welfare Canada, we were told by Dr. Saul Gunner of the Health Protection Branch, seem to have based their decisions on different data (Issue 25:10, 13). This certainly creates the appearance of unfairness and confusion, and raises doubts about the decision-making process. To avoid this problem, it is important that any review board have complete access to relevant information, including that on the class of products, and any competing or alternative products. The Committee recommends that:

> **Any review board appointed pursuant to the *Pest Control Products Regulations* must have full access to information on alternative products, or products of the same class.**

The problems encountered by the Alachlor Review Board with respect to the confidentiality of information could have been minimized if a new policy on disclosure of pesticide data had been in place. In this regard, we would refer back to the conclusions made in this Committee's 1986 report on herbicide pricing, which remain valid although the patent law for pharmaceutical drugs has been amended since that report was tabled.

A related difficulty is that a review board takes place some time after the original decision; therefore the information before it may be different from the information before the original decision-maker. This is particularly true in a case such as alachlor when a very lengthy period elapsed between the various decisions and reports. New data and new interpretations of existing data should not be ignored by the Review Board. The Alachlor Review Board, at the request of several of the parties, discussed the new information and its implications in a separate chapter from its discussion of information available at the time of the cancellation.

Another aspect of the problem of access to information was discussed in the Alachlor Review Board's report:

> There is no requirement in Canadian law, nor has it been regulatory practice, to produce public documentation for comment prior to the cancellation of a registration. This contrasts with the process in the United States where the Environmental Protection Agency is required to publish position documents at various stages of its review in order

> that all interested persons can know the Agency's position, what it is based on, and provide comments prior to the next stage. The absence of formalized documentation made it difficult for the Review Board to reconstruct the process in this case. There was very little documentary evidence available to the Board with respect to the decision of the Minister of Agriculture that the risks presented by the use of alachlor were "unacceptable." (page 34)

The availability of position documents at various stages of the review process would allow all interested parties to know the government's position, and on what it is based, and to provide comments prior to the next stage. Accordingly, the Committee recommends that:

> **Documentation should be published prior to the cancellation or suspension of a pesticide registration.**

THE NATURE AND SCOPE OF PESTICIDE REVIEW

As noted above, the bases for registration of pesticides in Canada are merit, value and safety. Sections 18, 19 and 20 of the *Pest Control Products Regulations* establish the standard that a product must meet in order to obtain and maintain registered status. In cases where the merit and value of a product are not at issue, the Minister is entitled to refuse to register a product or to cancel or suspend a registration if, in his opinion, the "risk of harm" or the "safety" of the product is not " acceptable" to him. Arguably, the standard for cancellation should be the same as that for registration: in either case, the Minister must first consider if there may be a risk associated with the use of the product and, second, if a risk exists, he must determine whether that risk is acceptable to him. Pesticides are by their very nature dangerous products: they are toxic agents designed to kill or control pests and their use implies some risk of harm. The issue generally revolves around the question of whether this risk is acceptable.

The Regulations contemplate that each specific use of a compound requires a separate registration, and that each registration can stand on its own merits. This implies that comparisons to other compounds need not to be considered in the evaluation. The determination of the "acceptability" of risks is a key element of the decision. As the Alachlor Review Board commented:

> There are many ways in which "acceptability" can be judged. In the Board's view, the Minister may and should judge the acceptability of any risks in light of the associated benefits and, where an established product is being considered for cancellation, in the the risks and

> benefits of any substitutes that will probably replace it. (Report, page 24)

Neither the Act nor the Regulations give the Minister any guidance about how he is to assess or determine the acceptability of risk. Nor does the Department of Agriculture appear to have followed any set procedure in assisting him to reach his decision. The Alachlor Review Board recommended that the *Pest Control Products Act* should be reviewed and updated to provide more guidance on how to determine the acceptability of safety, merit and value of control products. Similarly, the House of Commons Standing Committee on Agriculture commented, in its Sixth Report, that "the lack of a definition of merit, value and safety in the Act reinforces the need to develop criteria and guidelines to ensure fairness of measurement and consistency of approach to products" (Issue 51:6).

A related issue is the role that risk-benefit analysis plays in the registration process. The burden of proof arising from the Regulations is on the applicant to prove the safety of any pesticide proposed for use or sale in Canada. Scientific uncertainty frequently accompanies determinations of the environmental and health effects of chemicals; absolute safety is not what must be shown, or indeed is being shown by applicants.

While the United States pesticide registration legislation (the *Federal Insecticide, Fungicide, and Rodenticide Act*) explicitly requires the weighing of risk-benefit or cost-benefit considerations in deciding whether a particular pesticide should be registered, Canada's *Pest Control Products Act* is silent on this subject. Testifying before the Alachlor Review Board, Mr. Wayne Ormrod, Pesticides Division of Agriculture Canada, stated:

> There is no obligation to balance risks against benefits, nor is there a requirement to use formal risk-benefit analysis. The emphasis of section 3 of the PCPA is placed on demonstrating safety. (Alachlor Review Board Hearings, Toronto, November 1986, Exhibit 155 at 6).

Throughout the alachlor case, references to metolachlor as a comparable or substitute product appear to have affected the determinations of Health and Welfare Canada and the Minister of Agriculture. A comparative analysis of the two products was a major theme of the Alachlor Review Board Report.

Clearly, it is easier to keep risk-benefit analysis out of an initial pesticide registration determination; it becomes harder to study the product in isolation when it has already been registered. Moreover, it is in the borderline cases that it is most likely that some form of risk-benefit analysis will be undertaken.

The Alachlor Review Board made several recommendations (Report, page 30) regarding the comparison of alternative pesticides and risk- benefit analysis. As well, the House of Commons Standing Committee on Agriculture recommended that the Department of Agriculture develop a method for establishing a risk-benefit rating for pesticide products designed for comparable uses.

Whether one pesticide can or should be evaluated in isolation is difficult to determine. Ciba-Geigy, in its appearance before the Senate Committee, raised its valid concerns about being "pulled into" the alachlor hearings. The scope of such inquiries needs to be clarified. There are arguments in favour of looking at each pesticide separately, and arguments in favour of evaluating pesticides within the context of a whole class. With the future re-evaluation of older registered pesticides, the issue is going to become more pressing. Risk-benefit analysis is extremely complex. The layman would find it very difficult to decide on the continued registration of alachlor without comparing its benefits with those of metolachlor; the existence of a substitute product certainly appears to be a relevant factor. Nevertheless, the application of risk-benefit analysis to the pesticide registration process needs to be reviewed and clear direction provided as to the extent of its applicability. The Committee recommends that:

> **The *Pest Control Products Act* and Regulations should clearly specify that, where minimum standards have been met, risk-benefit or comparative risk-benefit analysis is to be carried out with respect to (a) the registration of a pesticide and (b) the cancellation or suspension of a registration.**

Under the *Pest Control Products Regulations*, there are different classifications of pesticides - domestic, commercial and restricted (section 26(2)). As a federal government document, *Pesticide Use and Control in Canada*, explained: "Classification is dependent upon toxicological and environmental parameters and is intended to confine products to channels of trade in accordance with the inherent risk and the capability of the user to avoid undue hazard to himself, third parties and environmental quality" (page 9). Among the restrictions that can be placed on pest control products are those which limit use of certain products to persons who, by training or authority, are qualified to use them. The Committee notes that certain provinces have recently started training programs leading to the licensing of the users of pesticides. Mr. Bruce Archibald, of the Ontario Corn Producers Association, told the Committee of the Grower Pesticide Safety Course, which is designed to educate growers on the safe handling of agricultural chemicals. Mr. Hajo Versteeg, Chairman of the Pest Management Advisory Board, in his appearance before the Committee, said:

> The provinces are working very hard on developing acceptable, hopefully national standardized certification programs for their farmers and foresters. The interesting part of that initiative is that the impetus for it has come from the farming community. (Issue 28: 21)

The Committee, recognizing the programs which already exist, recommends that:

> **The federal government should encourage provincial initiatives leading to common regulation of the use of certain pesticides only by licensed users.**

WHO MAKES DECISIONS

One of the most important issues in the alachlor case relates to the decision-making process. The Review Board, which consisted of eminent individuals carefully chosen for their expertise and independence, after many hearings and months of study, made certain recommendations; yet the Minister, as permitted by the *Pest Control Products Act* and Regulations, chose not to accept the Board's advice.

Dissatisfaction seems to stem from the fact that expectations had been created - inadvertently or not - that the Review Board's recommendations would carry more weight than they did. At the same time, Agriculture Canada has perhaps been less than forthcoming in explaining its reasons for not following the Review Board's recommendations. As noted above, this may be partly attributable to the constraints imposed by the confidentiality provisions. Still, there is a need for justice to be seen to be done. If there is unwarranted or excessive secrecy, or if the decision-maker is perceived as biased or the decisions as arbitrary, the whole system falls into disrepute.

Sometimes there is an unfortunate tendency for pesticide regulation matters to develop an adversarial relationship between farmers and environmentalists. The agricultural community is usually the most directly affected by decisions. Farmers are vitally interested in increasing their yields and reducing their costs, and they wish to remain competitive; yet, farmers are also extremely conscious of the risks and dangers inherent in the use of pesticides. Not only are they experienced in using such products, but they bear the greatest risk of resulting sickness or contamination. Indeed, in the case of alachlor, one of the concerns is the effect of the pesticide on the users, not on the ultimate consumers of treated crops.

One of the problems in pesticide regulation in Canada may be that since the 1920s, when governments first became concerned about the chemicals being sold to farmers, it has been administered by the Department of Agriculture. The issues in the 1920s, however, were vastly different from those of the 1980s.

Agriculture Canada is primarily interested in assisting the farming community and increasing agricultural output. Should such a department also be charged with regulating the use of pesticides? There is a danger that it will be perceived as biased in favour of farmers or, conversely, that it will bend too much the other way to avoid being so perceived. In any event, such a mandate would seem to place the Minister of Agriculture in a potentially awkward situation.

For similar reasons, the regulation of pesticides by Health and Welfare Canada or Environment Canada may give rise to the same concerns: each has its own interests and biases.

The answer may lie in some sort of interdepartmental organization, a consultative committee, or an independent regulatory agency. In the United States, pesticide regulation has been given to the independent Environmental Protection Agency (EPA). In Canada, Dr. Ross Hall has suggested that a Commission be established, to be jointly administered by the Departments of Environment, Agriculture, and Health and Welfare, which would be empowered to examine pest control problems in their totality. In any event, as the report of the Alachlor Review Board makes clear, the roles of the various government departments need to be clarified. Therefore, the Committee recommends that:

The decision-making hierarchy must be set out clearly, and the decision must be final at each stage, subject to any appeal.

It is clear that at present the review board acts only in an advisory capacity, in a sense as a double-check on the Minister's decision. As noted above, when the current *Pest Control Products Act* was passed in 1969, the idea of an appeal of the Minister's decision was considered inappropriate. Though it would be possible to give more authority to a review board, in the Committee's opinion either the Minister or Cabinet should be required to make the ultimate decision, or at least be able to accept or overturn it. In an area such as this, it is important that there be such an element of political accountability. It seems entirely appropriate that a politician be charged with balancing the complex interests and factors involved; such decisions should not be left only to experts or bureaucrats. The Committee, therefore, recommends that:

The ultimate decision regarding the registration of pesticides, or the cancellation or suspension of a registration, should remain at the political level, with either a Minister or the Cabinet.

CONCLUSIONS

The controversial cancellation of alachlor's registration is only a symptom of wider difficulties. In this brief report, the Committee has attempted to set out a number of its concerns. The various parties and interests involved - such as farmers, pesticide manufacturers, environmental groups and the general public - must be consulted and be intimately involved in the formulation of a revised system.

In this connection, we note that the Minister of Agriculture has received a legal analysis of the review board process carried out by Professor Wade MacLauchlan, and a number of suggestions for improving the regulatory process from the Pest Management Advisory Board. We urge the Minister to make these documents public. As a basis for public discussion, the federal government should prepare options for the improvement of the pesticide review process.

The alachlor case has brought to light various problems with the regulation of pesticides in Canada, and we believe that it is important for all concerned that the process be improved. We urge the Minister of Agriculture to use the experience to public advantage as a catalyst for change.

THE SENATE

Thursday, September 8, 1988

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

Prayers.

DISTINGUISHED VISITOR IN GALLERY

MEMBER OF CHAMBER OF DEPUTIES, ITALIAN PARLIAMENT

Hon. Peter Bosa: Honourable senators, I should like to draw the attention of honourable senators to the presence in the south gallery of a member of the Chamber of Deputies of the Italian Parliament, the Honourable Mario Frasson, who represents a constituency in northern Italy known as Venice-Treviso. He is accompanied on his first visit to Ottawa by Messrs. Louis Ghegin and Antonio Caltana.

May I extend to the honourable gentlemen the best wishes of the Senate for a pleasant and interesting visit in Ottawa.

Hon. Senators: Hear, hear!

PRIVATE BILL

GRENVILLE AGGREGATE SPECIALTIES LIMITED—FIRST READING

Hon. Roméo LeBlanc presented Bill S-21, to revive Grenville Aggregate Specialties Limited and to provide for its continuance under the Canada Business Corporations Act.

Bill read first time.

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

On motion of Senator LeBlanc, bill placed on the Orders of the Day for second reading on Monday next, September 12, 1988.

[*Translation*]

NATIONAL CAPITAL ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Fernand-E. Leblanc, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, September 8, 1988

The Standing Senate Committee on National Finance has the honour to present its

TWENTY-EIGHTH REPORT

Your Committee, to which was referred the Bill C-153, An Act to amend the National Capital Act, has, in obedience to the Order of Reference of Wednesday, August 31, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

FERNAND-E. LEBLANC
Chairman

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

On motion of Senator MacDonald (Halifax), bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*English*]

INCOME TAX ACT AND RELATED ACTS

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Ian Sinclair, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, September 8, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-NINTH REPORT

Your Committee, to which was referred the Bill C-139, An Act to amend the Income Tax Act and other related Acts, has, in obedience to the Order of Reference of Wednesday, August 31, 1988, examined the said Bill and has agreed to report the same without amendment, but with the following comments:

The Committee initially contacted the Canadian Institute of Chartered Accountants and the Canadian Bar Association, who together had appeared as witnesses and presented a brief from their Joint Committee in November of 1987. This Joint Committee was of the view that as Bill C-139 contained essentially the same material as the previous tax reform proposals, their appearance at this time would be redundant.

Officials from the Department of Finance during your Committee's first hearing on Bill C-139 reviewed provisions in the Bill that are "moderately significant changes" from what the Committee initially reviewed. These changes included:

1. child tax credits: (doubled from $65. to $130. for third and additional children);

2. automobiles: (individuals or firms who acquire cars with a price of more than $20,000 will not be eligible to deduct capital cost allowance for that amount in excess of $20,000);

3. farmers:

—(cash-crop farmers now have the same flexible inventory evaluation method as livestock farmers)

—(confinement of benefits of cash accounting to farmers for whom it is intended);

4. changes in taxation of life insurance companies, investment income tax and preferred shares;

5. changes in respect of associated corporation rules;

6. removal of $8,000 per family limit on child care expenses;

7. payments to former common-law spouses now treated as alimony.

The Committee also heard testimony with regard to the provision of customers' social insurance numbers to banks holding their savings accounts.

The Committee also heard detailed testimony from the Honourable T. Hockin, Minister of State (Finance).

Respectfully submitted,

IAN SINCLAIR
Chairman

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

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

Senator Sinclair: Honourable senators, another report of the Standing Senate Committee on Banking, Trade and Commerce has not yet been received from Translations, but it is my understanding that it will be available later. Therefore, I ask for leave to revert to Reports of Committees later this day.

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

Hon. Senators: Agreed.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Friday, 9th September, 1988 at ten o'clock in the forenoon.

Senator Frith: Will you be here, Jacques?

Senator Flynn: Not unless I have the assurance that Senator MacEachen is going to speak. He speaks outside to the TV cameras, but never here.

[Senator Sinclair,]

Senator Frith: We should sit on Friday—but "only if I get what I want."

Senator Flynn: As long as he won't continue to hide.

An. Hon. Senator: Where will you be?

Senator Frith: Senator Flynn will be hiding somewhere; he won't be here.

Motion agreed to.

QUESTION PERIOD

UNITED NATIONS

IRAN-IRAQ BORDER PEACEKEEPING CONTINGENT—REQUEST FOR ANSWERS TO FURTHER QUESTIONS

Hon. H. A. Olson: Honourable senators, the other day I received a reply in the form of a delayed answer to a question I had raised regarding the cost of paying for the Canadian contingent to the peacekeeping force on the border between Iran and Iraq.

I have some further questions to ask, but I understand that some negotiations are going on between Canada and approximately 24 other countries. Therefore, in the meantime, I would ask the Leader of the Government to give an undertaking to provide the Senate with an answer when the negotiations are completed.

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

• (1410)

(*Translation*)

OFFICIAL LANGUAGES

UNAVAILABILITY OF FRENCH TEXT OF C.D. HOWE INSTITUTE DOCUMENT DISTRIBUTED BY HON. JOHN CROSBIE

Hon. Eymard G. Corbin: Honourable senators, I have a question for the Leader of the Government in the Senate. On August 19, a memo dated August 18, 1988 and sent by the Honourable John Crosbie, P.C., Q.C., M.P., was delivered to my office. Attached was a brochure published under the title: *Evaluating The Free Trade Deal.*

By the way, the brochure is published by the C.D. Howe Institute. In his memo, the minister tells us:

It is unfortunate that this publication was published in English only. Since no translation is available, I apologize for any inconvenience.

In the following paragraph the minister says:

I am sure you will find this information useful in informing your constituents about the various aspects of the free trade agreement.

I take exception to the fact that a minister of the Crown, who is otherwise to be commended for sending his memo in French, expects me to send this brochure to my constituents, eighty-five per cent of whom are French-speaking, and read and discuss the contents with them. I think this is unfortunate, especially since the minister also says in his memo:

> The C.D. Howe Institute has an impressive track record, based on the quality of its surveys . . .

If the institute's track record is so impressive and if its studies are as valuable as Mr. Crosbie claims, why isn't this brochure available to members of the House of Commons and senators in French? Why doesn't the C.D. Howe Institute, which claims to be a national survey organization, publish studies of this nature and calibre in both official languages?

I therefore ask the Leader of the Government in the Senate to make inquiries and find out from his colleague, the Honourable John Crosbie, whether a French version of this brochure, which is currently available in English only, could be made available to parliamentarians.

I think that is our right. Strictly speaking, the Official Languages Act does not oblige the minister to send me the brochure in both official languages, but it seems to me that the intent of the Official Languages Act would dictate this. Otherwise, how can we expect to have an intelligent debate, not just on the substance of the issue but on all aspects relating to it?

I think it is practically an insult to French-speaking parliamentarians, and to all French Canadians, to ask them to analyse a publication that is not available in French.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the study in question, *Evaluating The Free Trade Deal*, is a publication prepared by Professor Lipsey and Mr. York. I referred to the study yesterday in my speech on Bill C-130. I even quoted from this particular study.

Senator Corbin must be aware of the fact that the C.D. Howe Institute is a private organization. This means that the responsibility for translating their publications in both official languages lies with the institute and not with the government.

As for Senator Corbin's suggestion that the minister should have his publications translated before sending them to members of the House of Commons and senators, I will make sure Minister Crosbie is informed of Senator Corbin's feelings on the matter.

Senator Corbin: Honourable senators, I don't mind telling the minister myself, but I think the C.D. Howe Institute is even more to blame. After all, it has a long history in this country and has offices in Toronto, in "la belle Province" in Montreal, and also in Calgary. It is time the Institute woke up and realized that we have two official languages here in Canada and that if it expects us to give its studies serious consideration, it should make them available in both official languages.

[*English*]

FOREIGN AFFAIRS

VERIFICATION OF SIGNATORIES TO COMMITTEE REPORT

Hon. Gildas L. Molgat: Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday in his speech on the Mulroney-Reagan trade deal, the minister took some pleasure in reading out from previous reports of the Senate Foreign Affairs Committee the names of those who had allegedly signed these reports. Could he tell me whether, when he mentioned my name in particular and those of other senators, he was referring to the report entitled Canada-United States Relations, Volume II, March 1982?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I had a photostat of the page in front of me at one point during my speech yesterday. Subject to correction, I believe I was referring to volume 3 of the report, tabled in March 1982. As I pointed out, his name appears on the list of senators who were members of the committee at that point.

Senator Molgat: Thank you very much. I was going to raise the matter on a point of privilege but I wanted to assure myself, before I did, that, in fact, he was referring to this document. I asked the Parliamentary Library for a copy of the document, which I have here before me. The only names of senators that I can see anywhere in this document are those of the chairman of the committee, the Honourable Senator van Roggen, and our Speaker *pro tempore*, who was then the deputy chairman. There is not a single other name mentioned in this report.

Senator Murray: Honourable senators, we will have to compare notes because I assure the honourable senator that the photostat of the page that I had in front of me after our exchange yesterday contained his name. I satisfied myself on that point. I shall send for the publication again and compare notes with my friend.

FOREIGN AFFAIRS

ALLEGED USE OF CHEMICAL WEAPONS BY IRAQ AGAINST KURDS—GOVERNMENT ACTION

Hon. Jerahmiel S. Grafstein: Honourable senators, I have a question for the Leader of the Government in the Senate. Amnesty International, a highly respected, non-governmental organization concerned with protecting human rights around the world, which has branches in Canada and elsewhere, has made an unprecedented appeal to the United Nations respecting the deplorable, systematic and deliberate policy of the Government of Iraq in reference to the elimination of Kurds. Severe allegations have also been made by other governments in connection with the alleged use by the Government of Iraq of chemical weapons on the Kurdish population and during the recent Iran-Iraq war. That would be contrary to the Geneva Protocol of 1925, which prohibits the use of chemical weapons.

● (1420)

Has the Government of Canada made any representations in order to stop this obscene practice? What steps, if any, can the Government of Canada take to ensure that the Geneva Protocol is adhered to?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall make inquiries of my colleague, the Secretary of State for External Affairs, in this regard.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have two delayed answers to questions.

NATIONAL DEFENCE

CANADIAN ARMED FORCES—POLITICAL RIGHTS OF SPOUSES—STATUS OF REGULATIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked by Senator Marsden on September 1 regarding National Defence—Canadian Armed Forces—Political Rights of Spouses—Status of Regulations. I ask that this answer be printed as part of today's proceedings.

(*The answer follows:*)

> The new regulations governing political activities on military bases will be in effect in the very near future. Until such time, as was indicated by the Honourable Senator, the Minister of National Defence has directed that Commanding Officers will apply present regulations in accordance with the intent of the policy changes. Civilian members of military families are to have the same rights as other civilians. Attached is a copy of the direction that was given.
>
> With regard to recommendation 2 of the Advisory Group's Report, it was recommended that civilian spouses and dependents be given the option of voting in federal elections in selected places of residence. Discussions have been ongoing with the Chief Electoral Officer. Legislation is presently before the other place which would permit Canadian citizens living outside Canada to vote in federal elections.

A supporting document is also available and it is my intention to table it. I will not ask that it be printed as part of today's proceedings because it is quite long. When tabled, it will be available to those honourable senators who would like to see it.

Document tabled.

[Senator Grafstein.]

THE ENVIRONMENT

GOVERNMENT INVENTORY OF PCB STORAGE SITES AND GUIDELINES FOR STORAGE AND DISPOSAL OF PCBs

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I also have a delayed answer in response to a question raised in the house yesterday by Senator Haidasz regarding The Environment—Government Inventory of PCB Storage Sites and Guidelines for Storage and Disposal of PCBs. As senators can see, this is a rather weighty tome. I would ask that it also be tabled and made available to those honourable senators who may be interested in looking at it.

Document tabled.

INDIAN ACT

BILL TO AMEND—THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), for Hon. Mira Spivak, moved the third reading of Bill C-150, to amend the Indian Act (death rules).

Motion agreed to and bill read third time and passed.

LOBBYISTS REGISTRATION BILL

THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), for Hon. Richard J. Doyle, moved the third reading of Bill C-82, respecting the registration of lobbyists.

Hon. Nathan Nurgitz: Honourable senators, I have a few brief remarks to make at third reading of this bill. I intended to speak yesterday upon the presentation of the committee's report, but because we had many things on the agenda I left it until today to explain to the Senate the brief comments of the committee. I had undertaken with our chairman, Senator Neiman, to make some comments in addition to those that senators will have read on the tabling of our report.

Hon. Royce Frith (Deputy Leader of the Opposition): Are the committee's comments to be found in the *Minutes of the Proceedings of the Senate*?

Senator Nurgitz: They should be, although I do not have the page before me.

Senator Frith: Yes, they are; they appear at page 3319.

Senator Nurgitz: Honourable senators, the Standing Senate Committee on Legal and Constitutional Affairs supports the bill's objectives and believes that there is a need for the public to know who is attempting to influence government decisions. In doing so, it decided not to propose amendments to the bill. However, this should not be interpreted to indicate that the committee has no concerns about Bill C-82. Indeed, the main purpose of the report is to express these concerns. In general terms, the committee would have preferred that the bill go further than it does.

The committee's foremost concern relates to a matter that is fundamental to the bill's approach to the registration of lobbyists—that is, the division of lobbyists into two tiers and the differing disclosure requirements that flow therefrom.

Tier I lobbyists, that is, third-party, paid lobbyists who undertake to arrange a meeting or to communicate with a public office holder in an attempt to influence certain government actions are required to disclose identifying information about themselves and their clients, along with the proposed subject matter of their meetings or communications. On the other hand, lobbyists such as directors of government relations of various organizations, who spend a significant part of their employment duties communicating with public office holders on behalf of their employers, are classified as Tier II lobbyists and are required to disclose only their names and their employers' names, but not the subject matter of their communication. For a Tier II lobbyist, then, a business card is all that is required.

In the committee's opinion, the assumption that a business card will provide all the information that the public needs to know about a Tier II lobbyist's activities is questionable at best. Tier II lobbyists, like their Tier I counterparts, are likely to be making representations on several issues, some of which may not be readily identifiable from the name of the employer. By requiring only identifying information from Tier II lobbyists, the bill would seem to fall somewhat short of achieving the objectives of openness and transparency in government.

The committee also noted that when a Tier I lobbyist communicates with a public office holder in an attempt to influence the awarding of a government contract, for example, that lobbyist must file a return with the Registrar General. However, if a Tier II lobbyist engages in this very same activity, no filings are necessary. It is not clear why corporations that are lobbying to obtain government contracts are excluded from the purview of the bill as long as they do not hire a Tier I lobbyist to act on their behalf.

Lobbyists spend a great deal of time gathering information on government activities for their clients. In fact, many lobbyists would argue that information gathering comprises the bulk of their work. Bill C-82, however, does not appear to cover specifically information-gathering activities.

Although opinions differ as to whether, for the purposes of this bill, this kind of function should be classified as lobbying, there is no doubt that the distinction between directly lobbying government on behalf of a client and gathering information to assist that client in influencing government is not clear. In the committee's view, the bill might have addressed this issue better by expanding its parameters to include those information-gathering activities that are intended to result in an attempt to influence government decisions.

Another issue examined in the committee's report relates to a possible interpretation of clause 5 of the bill, which suggests that a Tier I lobbyist would have to report each and every communication with the public office holder on any given subject matter. If that is the case, it would appear to the members of the committee that it might be an administrative nightmare. The Minister of Consumer and Corporate Affairs advised the committee, however, that it is not the intention to require a filing for each communication. The committee recognizes that regulations will be vital to administer this bill effectively and to clarify ambiguities in the registration.

Bill C-82 calls for a review of its operation and administration by a parliamentary committee after three years. We can all take comfort in knowing that parliamentarians will have a second opportunity to look at this bill and to address the matters raised by this report.

Senator Frith: That will be in the third year of our mandate.

Senator Nurgitz: Yes, it will be in the third year of our mandate. I thank Senator Frith for helping me with that.

Finally, the members of the committee recognized the importance of attempting to make the processes of government more open and understandable to the public at large. I believe, honourable senators, that this bill, notwithstanding some possible imperfections, is an important step towards achieving that goal.

Senator Frith: So the end justifies the means.

Hon. Richard J. Stanbury: Honourable senators, Senator Nurgitz has ably presented the report of the Standing Senate Committee on Legal and Constitutional Affairs concerning our consideration of Bill C-82, respecting the registration of lobbyists.

• (1430)

I merely wish to emphasize some of the concerns of the committee and indicate those that were not included in the report.

Senator Nurgitz has faithfully explained to you the concerns which the committee agreed should be recorded as the principal concerns of a majority of the committee, and those relate to the bill's failure to address specifically the information-gathering activities of lobbyists, the artificial division of lobbyists into two tiers with different rights, and a consequent concern as to whether those provisions offend the Charter of Rights and Freedoms. Senator Nurgitz also reported our worry about the ambiguous language in the bill and an interpretation of the principal operative section of the bill which would turn the whole thing into an administrative nightmare.

My purpose is to point out to honourable senators that the concerns mentioned in the report are only the most serious concerns of the committee and do not reflect the general conviction of the majority of the members of the committee that the whole bill is flawed and will be found to be impossible to administer. As a matter of fact, two of our witnesses, who are former deputy ministers, gave that as their opinion. The bill, when it becomes law, will be unadministrable.

In the opening recitals the government states that lobbying public office holders is a legitimate activity, that it is desirable for the public to know who is attempting to influence government, and that a system for registration of lobbyists should not impede free and open access to government. This government

is awfully good at writing opening recitals. It is hard to disagree with them. However, as is frequently the case with this government, the substantive legislation that follows the statement of worthy purposes either fails to do the job or does a bad job of implementing those purposes.

In the first place there is no definition of "lobbyists," although the proposed legislation is called "An Act respecting the registration of lobbyists." The act of lobbying is an attempt to influence a public office holder with respect to various actions of government for a fee or as an employee of a company or association. The term "public office holder" is cast so widely as to include not only a member of the Senate or the House of Commons, or any person on the staff of a senator or member of the House of Commons, but also any person appointed to an office or a body of the Governor in Council or a minister of the Crown, an officer, director or employee of any federal board, commission or tribunal, a member of the Canadian Armed Forces, and a member of the Royal Canadian Mounted Police. Those are the people to whom a Tier I lobbyist must not talk without registering.

An offence is committed if an individual, for payment, undertakes to arrange a meeting with the public office holder or to communicate with a public office holder in an attempt to influence, without filing a prescribed form with the registrar within ten days. A reasonable interpretation of that section is that a form must be filed for each call and each communication, conjuring up an image of warehouse after warehouse full of forms that nobody looks at. "Ridiculous" you say? Of course! But if that is not the intention, then why not clean up the wording of the section to make the intention clear. Otherwise we have to depend on regulations, and regulations are intended to implement legislation, not to clarify it.

The avowed purpose of the bill is to let the public know who is being paid to influence government. I invite you to cast your mind about the Ottawa scene. Who is it that you think of as being the principal lobbyists in Ottawa? Who has representatives on the Hill and in the department offices almost continuously, speaking with officials at every level, making friends for future reference and generally equipping themselves to give the best possible advice on government relations and what is going on in government? The people I think of are the 47 companies listed in the Yellow Pages of the Ottawa telephone book under the heading "Government Relations Consultants". Apart from the employed representatives of trade associations and a few major companies, those are the people who form the interface between government and business in Canada.

However, under this legislation, in all probability, they will not be required to register as lobbyists at all. That is because most of them will say, "We only acquire information and pass it on to our clients with advice on how to use it. We don't arrange meetings with officials. We don't communicate with a public office holder in an attempt to influence the actions of government. It is quite incidental that we spend so much time with public office holders learning what's going on in government and that they get to know who our clients are and, quite incidentally, develop an urge to be helpful." This legislation does not require anyone carrying out that kind of activity to register at all.

The bill is just as bad in dealing with the distinction between Tier I lobbyists and Tier II lobbyists. A Tier I lobbyist is an individual who gets paid for making some representation. He has to file a form for each intervention. He has to give his name and address, his firm, the name and address of his client, and, if his client is a corporation, the name and address of each of its subsidiaries, the proposed subject matter of the meeting or communication and such further information about the client as may be prescribed. There is no room for professional confidentiality or commercial security. Those are the things he must disclose. On the other hand, a Tier II lobbyist, who is an employee of a company or an organization whose job it is to communicate with public office holders, just has to register once a year and does not have to disclose the subject matter of his lobbying even if it has to do with obtaining government contracts.

Senator Nurgitz, in presenting the report, has already commented on some of the sloppy language in the bill. Without registering as a lobbyist you must not attempt to influence "the development or amendment of any policy or program of the Government of Canada". What is a "policy" or a "program" and at what stage does the conveying of a bright idea turn into an attempt to influence the development of a policy? How is "an attempt to influence" to be interpreted? Is it a simple phone call to determine the status of a matter? Is it a casual mentioning to a friend who is a public office holder that you or someone you know has an interest in the matter, and what happens if it is an official who phones you?

The committee, in its report, recognizes that we are very much in the hands of those who draft regulations, and finally, it takes some comfort in knowing that after three years a parliamentary committee will review the administration and operation of the bill. It is sad when legislation as inadequate as this bill manages to pass through both houses of Parliament. The best that can be said for it is that it does make a first step toward an important objective, well expressed in recitals at the beginning of the bill. It does provide a means of registering some of those who influence the actions of public office holders and thereby the actions of government. Because there is a worthy purpose involved, I believe that my colleagues will support the third reading of the bill. However, we must clearly say that this is another example, of which there have been so many recently, of hastily drafted bills which, because of an uncaring, irresponsible majority in the House of Commons and an arrogant government that refuses to accept amendments, find their way into law.

Senator Frith: Well said!

Some Hon. Senators: Hear, hear!

Some Hon. Senators: Oh, oh!

Senator Nurgitz: Thanks for your vote, Dick!

Senator Frith: "Apart from that, Mrs. Lincoln!"

Motion agreed to and bill read third time and passed.

[Senator Stanbury.]

[*Translation*]

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C., for the second reading of the Bill C-130, an Act to implement the Free Trade Agreement between Canada and the United States of America.—(*Honourable Senator Gigantès*).

Hon. Philippe Deane Gigantès: Honourable senators, yesterday I promised I would quote the sources used by the Leader of the Government in the Senate, Senator Lowell Murray, to demonstrate, using the sources he himself used, that what he said about the Free Trade Agreement was not what his sources had to say about the agreement.

Before getting into that, first I would like to talk about something he said, because this is part of his psychological make-up, about past successes in 1980 and 1982 during the debate on patriation of the Constitution.

He said a number of times, for instance in *La Presse* of June 15, 1987 and in *The Globe and Mail*, on the same day:

● (1440)

[*English*]

> The solemn promise made to Quebecers during the referendum that federalism would be renewed and the Constitution amended to reflect the distinct identity and aspirations of Quebec was unfortunately not kept.

There was no such solemn promise; on contrary, Quebecers were told clearly during the referendum campaign that the things which they were given in Meech Lake were not negotiable and they would not be given to them.

Mr. Trudeau, for instance, specified during that debate that if there were any mention of the Quebec society's distinctiveness in a preamble this should not be used as an interpretative clause.

Was it possible to misinterpret his statement in the Paul Sauvé Arena on May 14, 1980, in which he said:

> . . . I can make a most solemn commitment that following a NO vote, we will immediately take action to renew the Constitution . . .

Could he intentionally or unintentionally have misled the people of Quebec into believing he would grant them special status or greater autonomy? Or could Mr. Trudeau have allowed Quebecers to mislead themselves?

Mr. Lévesque was under no illusion whatsoever immediately after the referendum. He did say that they would not get special status and added that they would not get recognition of Quebec as a distinct society.

On April 6, 1980, on CTV, translated and rebroadcast in French, with headlines in all French newspapers in Quebec the next day, Mr. Chrétien, who was speaking on behalf of the federal government at the time on this issue—he was the point man—was asked by columnist Jeffrey Simpson about the constitutional changes that might occur after the referendum. Mr. Chrétien replied:

> What we have to do, basically, is to recognize some principles that should preside over the elaboration of a new Constitution. The principles are that you need a national government, . . . that the federal government should be strong enough to be able to redistribute the wealth of Canada, and all that being done without giving any province a real special status.

It could not be any clearer.

Did the people of Quebec mind what Lévesque said immediately after the referendum? I will now quote him. He warned that Trudeau's renewed federalism would be:

[*Translation*]

> . . . more centralizing . . . than ever.

In *Le Devoir* Lévesque asked on May 16, 1980, "What kind of renewal are we talking about?" He went on to say:

> The only valid indication we have, according to [Lévesque] is recent statements by Mr. Trudeau, where he said he wanted to tear up the agreement between Ottawa and the provinces, signed under the Clark Government, which left this area to the provinces, and where he also said that he wanted to reverse the agreement with Newfoundland which gave the province offshore mineral rights.

[*English*]

It was therefore clear to Premier Lévesque that renewed federalism certainly did not mean giving Quebec greater autonomy.

So the Parti Québecois strategists, doing their duty according to their lights, and serving their cause, mounted a campaign to convince the people of Quebec that they had been had. It was a difficult campaign to mount, and it did not work.

A Gallup poll on December 10, 1981, after the various negotiations were completed and the shape of the new Constitution was known, showed that 34 per cent of Quebecers sided with Premier Lévesque—they had had time to digest what had happened—46 per cent disagreed with him; 12 per cent had no opinion; and 8 per cent were not familiar with the facts.

What happened in 1981 and 1982 had been accepted by the people of Quebec. It was not a case of fooling them or betraying them. To my mind, it is uncalled for to use this issue, to scratch this most fundamental wound in Canada's heart, for electoral purposes, as this government has done in order to win votes in Quebec.

This is an attitude that also pervades this government's selling of free trade. It sells it the way diapers are sold—photographs in all the newspapers of some cute person saying, "I am for free trade! I like Huggies." The value of the agreement legally is not much better, I am afraid, than that of Huggies.

I spoke on this issue on July 20, and I will not go over those points again, except to give you a summary.

You all have before you a text called "The Free Trade Agreement". I am now reading the summary on page 3. It consists of a series of propositions and the evidence that proves these propositions.

Proposition 1: Before Mr. Mulroney and Mr. Reagan signed their "Free Trade Agreement", the FTA, Canada's international trade was not broken and did not need fixing. With the U.S. and the rest of the world, our trade was healthy and had been growing fast. Our partners benefited more from their trade with us than we did. The multinational GATT gave us reasonably good security against the unfair protectionism of other nations.

All the details are on page 8 of the text. I challenge any person in this chamber to find fault with any of the facts.

(1.1) Though we are America's largest trading partner, we are an infinitesimal part of America's current account problems or trade problems.

(1.2) The Americans' current account deficit with Japan is 96 times larger than their deficit with us.

(1.3) The Americans' current account deficit with Europe is 50 times larger than with us.

(1.4) On average, the U.S. has had a considerable surplus in its transactions with us.

(1.5) Trade between Canada, the rest of the world and the U.S. has been increasing steadily and fast—much faster than our labour force and our economy.

(1.6) Tariffs have come down spectacularly in trade between Canada and the U.S.

(1.7) Canada-U.S. trade means better jobs and more technology for Americans than for us. Honourable senators, the facts are found on page 9.

• (1450)

(1.8) Our trade with Japan and Europe also means better jobs and more technology for them than for us.

(1.9) In view of the above, our principal trading partners have no objective reason to keep out our exports. I address myself here to such comments as "We have no access. We lack a market. We are threatened." I do not think our partners will cut off their noses to spite our face. They buy from us because it is to their advantage. It is profitable for them to do so.

(1.10) The GATT has given us good security against unfair protectionism by others. Honourable senators, this is found on page 10. We have done very well in GATT.

(1.11) We are the glacis, the clear ground, that is essential to the defence of the United States. I will submit later that it is unlikely that the U.S. would disregard our interests and our mood towards them.

Proposition 2: Mr. Mulroney promised that a trade treaty with the U.S. would give our exporters better protection than under the GATT. He also promised that we would sign a trade deal with the United States only if such a deal gave us better protection for our exporters than the GATT and, thus, a better investment climate and more jobs. Under "Proposition 2" I give all the citations in which the Honourable Mrs. Pat Carney, when she was our Minister for International Trade, and Mr. Mulroney, himself, said how unfair the Americans were; how unfair U.S. protectionist legislation is; and how much in danger we are facing U.S. bad faith. All of those quotations along with the data are found on pages 13 and 14.

Proposition 3: Prime Minister Brian Mulroney, in his trade deal with the U.S., did not obtain his main "vital condition"—exemption for Canadian exporters from unfair protectionist U.S. trade laws. We have no more protection than we had before the FTA. We do not have a better deal. I prove this from page 15 through page 19 by citing, side by side, the provisions of the General Agreement on Tariffs and Trade and the provisions of the Free Trade Agreement. Honourable senators can see there, if they care to read it—and they should—that we have not got anything we did not have before.

Proposition 4: Economic forecasts used by Mr. Mulroney to sell his deal do not predict prosperity. Even so, Mr. Mulroney signed this deal, which was not "better," if we hold to his definition of what would have been a better deal. His definition of what would have been a better deal is contained in (2.8). Yet, according to the self same economic forecasts that were quoted by the Leader of the Government yesterday, the risks of not signing were minimal—a loss of some 8 cents a day per Canadian in 1998 and a loss of 22,000 jobs over 11 years. Hardly a catastrophe.

(4.1) "Without the free trade deal, we could lose 22,000 jobs to additional American protectionism in 11 years," said the Economic Council after Mrs. Carney had stated it would be 500,000 jobs.

(4.2) "Without the free trade deal, additional protectionism by the U.S. could cost each Canadian some 8 cents per day 11 years from now," said the Economic Council. It is hardly ruination.

(4.3) The trade deal might give us one-third the jobs the Mulroney government originally promised.

(4.4) Job creation under the Mulroney trade deal is slower than even during the 1974-84 years of explosions in oil prices, hyper-inflation, sky-high interest rates, the deep recession that began in 1981 and massive unemployment. We did better in those 11 years than the government's figures forecast we shall do in the next 11 years under the Free Trade Agreement.

Honourable senators, I now invite you to turn to page 22 of the text.

(4.5) By the time the Mulroney trade deal is fully in place in 1998, personal incomes may have increased by some 10.5 cents per person per day. Honourable senators, these are not my figures; these are the government's figures. The Economic Council of Canada says that after 11 years the economy will be 2.5 per cent greater with the Free Trade Agreement than it would be without the Agreement. That total growth of 2.5 per cent over 11 years turns out to be an added average growth of 2.25 tenths of 1 per cent per year. These figures are derived by

using the standard formula for calculating compound rates of growth.

If our gross domestic product grows an extra 2.25 tenths of 1 per cent in 1988, the first year of the Free Trade Agreement, each Canadian man, woman and child will have an extra 10.2 cents per day—or less than the price of one cigarette. By 1998, that extra income for each Canadian would be 10.5 cents in 1981 dollars—still not enough for one cigarette. Senator Frith will be glad, as I am, that they will not be able to buy that extra cigarette, but that is the image we should have in our minds. We are entering this trade deal to be able to buy one more cigarette per day. The calculations are based on the figures of the Department of Finance publication *Quarterly Economic Review* for June, 1988. By any comparison, then, the trade deal is no great deal for the average Canadian, according to the government forecasts. For a fuller treatment of all these calculations, with all the references, please see item (4.5) in the appendix to this text.

I would now ask the Senate to allow this appendix to be printed at the end of the text of the debate. Do I have your permission, honourable senators?

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

Hon. Senators: Agreed.

(*For text of appendix see Appendix "A", p. 4336.*)

Senator Frith: What appendix?

Senator Gigantès: There is an appendix which gives the calculations.

(4.6) Mr. Mulroney did not get a better deal, yet he signed it even though he said he would only sign a better deal. Mr. Mulroney told the *New York Times* on April 3, 1987, "there were several vital conditions the (trade agreement) would have to meet. Most important among these, "Mr. Mulroney said, is that Canada must be permanently exempt from the U.S.'s fair-trading laws." This permanent exemption was his most important vital condition and Mr. Mulroney did not get it. Yet, we have the Leader of the Government saying that what we wanted was enhanced access, more secure access, and adequate institutional provisions—to which I shall turn shortly.

What Mr. Mulroney may have got, according to projections he uses and publicizes, is a GDP per capita and a rate of job creation considerably slower than in our worst post-war decade. That is not a better deal, as Mr. Mulroney, himself, defines "a better deal."

He said that "if our negotiations do not result in a better deal for Canada, there will be no deal." This was quoted by the Honourable Pat Carney in the *Commons Debates* of October 9, 1986 at page 255. Yet, he signed it.

In sum, the evidence shows that economic forecasts used by Mr. Mulroney to sell his deal do not predict prosperity. Even so, Mr. Mulroney signed this deal which was not better, if we hold to his definition of what would have been a better deal. Yet, according to the self-same economic forecasts, the risks of not signing were minimal, a loss of some 8 cents a day per Canadian in 1998 and a loss of 22,000 jobs over 11 years. By the way, the 2,000 per year falls through the calculations of Statistics Canada. Their model for prediction cannot predict a figure as small as 2,000 jobs.

• (1500)

Proposition 5: Here I come to much of the speech by the Honourable Leader of the Government in the Senate. I will demonstrate that we were paid far too little and we gave far too much. We score a plus for an advantage gained, a minus for an advantage lost and a zero for no change. The Free Trade Agreement gives Canada no pluses, 12 zeros and six minuses. The U.S. scored the converse: six pluses, 12 zeros and no minuses.

In view of the evidence in sections (3) and (4) above, how then does the Mulroney government defend the FTA? You heard yesterday that it uses Dr. Richard G. Lipsey, whose book is being distributed at government expense all around the country by the Honourable John Crosbie, P.C., M.P.—

Senator Frith: Not at the government's expense, at the taxpayers' expense!

Senator Gigantès: At the taxpayers' expense. Thank you, sir. I stand corrected. I will never make that mistake again. They are papering the country with this as they were earlier papering the country with the publication of Statistics Canada that promises just under an extra cigarette per day per person in 1998.

Senator Barootes: That is a collector's item you are holding up here!

Senator Gigantès: This thing is a collector's item? Okay.

Senator MacEachen: Is it any good?

Senator Gigantès: It is quite obvious that neither the Honourable Senator Barootes nor Mr. Crosbie has read the book. They probably read the introduction and the conclusion, as most journalists have, but they have not read the inside, because if they had read the inside they would have reached the inescapable conclusion, which I am about to demonstrate, that either Mr. Lipsey did not reread his text or he and Mr. York divided the writing of the text and then did not read one another's work, because it is full of contradictions.

At any rate, Dr. Richard G. Lipsey analyzes the FTA and grades it with pluses, minuses and zeros and gives it his blessing. He says:

> It seems reasonable to judge the Agreement on the balance between its pluses and minuses and not on the places where it scored zero.

This is Lipsey, page 22.

Senator Frith: What proposition are we on?

Senator Gigantès: We are on proposition 5, page 23: We were paid far too little and we gave far too much.

Dr. Lipsey is one of the most respected economists in the country. Critics of the FTA are often told, as we were told yesterday by the Honourable Lowell Murray: "But Lipsey

likes it." Inescapably, therefore, any analysis of the FTA must review Dr. Lipsey's grading of the Canada-U.S. Free Trade Agreement.

His views are laid out in his book, which you have all received, and he says that, unfortunately, the status quo was no longer good enough before the FTA.

> The GATT is arguably the most successful of all the international institutions that were established after the end of World War II. It has presided over major reductions in trade barriers that have caused dramatic increases in world trade.

This is the terrible GATT that we have to replace.

Senator Doyle: Who said it is terrible?

Senator Gigantès:

> Since the early 1970s, concern has grown over the GATT's ability to sustain world trade liberalization . . . The most important reason . . .

We will come back to what Mrs. Carney and Mr. Mulroney were saying—

> . . . is that the GATT's success in rolling back tariffs has been partly offset by the growth of non-tariff barriers to trade usually referred to as NTBs. As the term suggests, a non-tariff barrier is any instrument other than a tariff that is used to restrict trade. Examples are import quotas, voluntary export restraints . . . and various forms of harassment by customs officials when goods cross a country's borders.

I am not quoting him just for the pleasure of reading his prose. With the exception of Mr. MacEachen and perhaps Mr. Galbraith, economists do not have very good prose.

Still quoting Dr. Lipsey:

> One of the most serious sets of non-tariff barriers in place today has arisen from the misuse of domestic laws designed to establish the rules of fair trade . . . Fair trade laws are meant to 'level the international trade playing field' . . . The three main trade remedies in widespread use today are countervail, . . .

Remember this!

> . . . antidumping and temporary import relief.
>
> The theory of the level playing field—

This is the case of the government.

Senator Frith: What is the theory of the level playing field?

Senator Gigantès: It means that nobody must take advantage of anybody else.

Senator Frith: Why the playing field? Does that mean it is on a tilt?

Senator Gigantès: It is used because Americans think in terms of a football field on which they are playing.

Senator Frith: Is it on a tilt that is fair to both sides?

Senator Gigantès: If you imagine the common playing field of the U.S. and Canada, it is like the Canadian football field which has 11 divisions from side to side. We own one of the 11 and they own 10. I ask you to imagine to which level it would be levelled.

Senator Frith: It is a terrible metaphor. It does not mean anything.

Senator Gigantès: It is not mine, sir.

Senator Frith: Carry on just the same.

Senator Gigantès:

> The theory of the level playing field is hard to object to in principle. In practice, however . . . in the case of Canadian softwood lumber, for example . . . it is hard to avoid the conclusion that (the reason for imposing countervail duties on us) was the U.S. political and economic climate rather than Canadian resource policies.

Dr. Lipsey continues:

> . . . Antidumping duties can be more than just a 'fair trade measure' . . . such duties can become significant obstacles to trade.

I give you all the things he finds wrong, to see whether the trade deal deals with them. Dr. Lipsey continues:

> From a Canadian perspective, one of the most worrisome developments in U.S. trade policy has been the growing tendency to resort to 'temporary' (relief from imports) for industries subject to intense international competition . . . There are two main . . . import restraints . . . quotas and tariff surtaxes. The other is through voluntary export restraint . . . agreements, whereby the exporting country agrees to restrain its exports, often to avoid . . . even more severe restrictions . . . The frequent use of (such) action tends to undermine the basic principle of liberalized trade: that market competition should determine trade patterns.

This is Dr. Lipsey, pages 3 to 7. In other words, Dr. Lipsey thinks that the so-called U.S. fair trade laws are the principal obstacles the Canadian exporter faces; that they are unfairly applied and often undermine the basic principle of liberalized trade: that market competition should determine trade patterns.

He is in apparent agreement, therefore, with the Hon. Pat Carney, who when she was Minister for International Trade, said:

> No one knows better than I about the effect American trade remedy laws have had on our exports. We have seen it in shakes and shingles, fish, lumber, and farm products . . . (Their) unilateral decisions on what they call unfair practices are the problem between us . . . (The) Americans call them fair trade laws but they are not.

This is from *Commons Debates*, March 16, 1987, page 4178. You could also look at pages 13 and 14 above for more details on this issue. As Dr. Lipsey says:

> The objective of the negotiations was access.

That is exactly what we were told yesterday by the Leader of the Government. That, of course, is what Mr. Mulroney had told the *New York Times*, which I would like to repeat:

> There were several vital conditions the (trade agreement) would have to meet. Most important among these, Mr. Mulroney said, is that Canada must be permanently exempt from the United States' fair-trading laws.

• (1510)

With the above perception of the problems facing Canada, Dr. Lipsey concludes that:

> . . . to assess this case one needs to look at what the two countries did and did not give up in the Agreement. (Lipsey, p. 116).

This is exactly what the Leader of the Government tried to do yesterday when quoting Dr. Lipsey. Instead of actually telling us what Dr. Lipsey said, he simply dropped his name—there were Lipseys bounding all over this red carpet, along with the Gordon Robertsons and all the other authorities that the Leader of the Government was scattering around, like flowers in front of a bull being led to the slaughter—an ancient Greek custom.

(5.1) Score Zero. The FTA gives us a "right to national treatment" which is no greater than the rights we already had under the GATT.

Critics of the FTA ask:

> Since the objective of the negotiations, to provide security of access to the U.S. market by gaining exemption from U.S. fair trade laws, was not achieved, shouldn't the agreement be rejected?

Yesterday the Leader of the Government told us that we had achieved enhanced access, more secure access and adequate institutional provisions, and he quoted Dr. Lipsey to us. Yet here is Dr. Lipsey saying, "Since the objective of the negotiations, to provide security of access . . . was not achieved", and that is Lipsey at page 21. But he says—perhaps we should not just reject; let us look at the rest.

Senator David: That is not what is said in your paper, sir. You say "significant progress . . . was achieved".

Senator Gigantès: I will get to significant progress in a moment, sir. The words are very carefully chosen in these quotations. Thanks to the taxpayers of Canada, you have a copy of my speech so you can go on checking.

> The right of national treatment gives blanket assurance that the United States will not discriminate against Canadian producers in any activities covered by the Agreement, except where the treaty explicitly provides otherwise (Article 501).

Well, here is Article 501 of the Free Trade Agreement:

> Each party shall accord national treatment to the goods of the other Party in accordance with the existing provisions of Article III of the General Agreement on Tariffs and Trade (GATT), including its interpretative notes, and to this end the provisions of Article III of the GATT and its interpretative notes are incorporated into and made Part of this Agreement.

What have we here? We have, in effect, an inclusion in Dr. Lipsey's list of "how the agreement increases access", a GATT article guaranteeing our exporters "national treatment" in the U.S. The FTA, therefore, gives us something we already have because both Canada and the U.S. are already members of the GATT.

(5.2) Score Zero. The FTA gives protection against the use of U.S. taxes as barriers to trade, but this protection is no greater than what we already had under the GATT. Honourable senators, I have given the score of zero when there is no change. I quote Dr. Lipsey:

> Internal taxes, such as sales or excise taxes, no longer can be used as concealed trade barriers—for example, by levying rates on imports higher than those levied on domestic goods: (Article 501). (Lipsey, p. 14)

The same Article 501 of the FTA—I have just quoted it—is cited a second time as "increased" access in Dr. Lipsey's list, even though, as we have seen, it merely refers to Article III of the GATT, which was already in place and applied to us before the Mulroney-Reagan trade deal.

(5.3) Score Zero. The FTA gives us protection against U.S. quantitative restrictions to keep out our exports, but this protection is no greater than what we already had under the GATT. This is the famous sidewipe thing, honourable senators—we have been saved from the sidewipe no more than we were saved from the sidewipe under the GATT.

Senator Barootes: It is "sideswiped", senator.

Senator Gigantès: "Sideswiped", then. I think of being "wiped" by the Americans—that is why I misquoted myself. Thank you, sir.

Senator Sinclair: One Greek to another!

Senator Flynn: It is all Greek to you, is it?

Senator Frith: Beware of Greeks bearing gifts.

Senator Gigantès: As above, Article 407 of the FTA enunciates rights we already have under the GATT. It reads:

> Subject to further rights and obligations of this Agreement, the Parties (Canada and the U.S.) affirm their respective rights and obligations under the General Agreement on Tariffs and Trade (GATT) with respect to prohibitions or restrictions on bilateral trade in goods. The Parties understand that the GATT rights and obligations . . . prohibit, in any circumstances in which any other form of quantitative restriction is prohibited, minimum export-price requirements and, except as permitted in enforcement of countervailing and antidumping orders and undertakings, minimum import-price requirements.

Honourable senators, nobody who speaks on behalf of this Agreement seems to have done his reading, nor does he seem to have referred to that which he should have referred to. Article 407 simply says that we have the right already under the GATT. Once again, Dr. Lipsey cites an article of the FTA—407—as new "increased" access, even though it merely refers to rights we already had. Honourable senators will remember the list that our Leader of the Government read in the Senate yesterday. It was a list of 18 items, to which I am now referring. Every one of them was a right already granted

under the GATT and we are being given these items as "increased access" when we had that access already.

(5.4) Score Zero. This, honourable senators, is another sideswipe aspect. The FTA gives us protection against being sideswiped by American trade measures against others, but no more protection than we already had under the GATT. Dr. Lipsey says that Articles 1101 and 1102 of the Free Trade Agreement protect us against being sideswiped when the U.S. is taking measures against other countries (Lipsey p. 16). These articles deal with so-called "emergency action" when there is such a surge of imports that it endangers domestic producers of similar goods. Here again, the alleged new "increased" access listed by Dr. Lipsey is the same under the FTA as it was under the GATT. The relevant passages are given in items 3.3 to 3.5 of the text that I have just distributed.

(5.5) Score Zero. Neither the FTA nor the GATT shields us from U.S. red tape and regulatory delays. Honourable senators may remember that we played that trick on the Japanese. We just would not pass their cars through customs. The French decided that until Japan exercised voluntary restraint in the exportation of VCRs, all the VCRs from Japan had to pass through the customs house at Poitiers, where there was one customs officer who was not particularly zealous. He asked that every number on the manifests be opened and checked with the corresponding number on the VCR. He was taking forever, and this is the sort of bureaucratic red tape to which I refer here.

Dr. Lipsey says that another form of action which distorts "the basic principle of liberalized trade" is the use of regulatory delays and red tape.

> The Agreement cannot guarantee that such invisible barriers will be eliminated . . . (Lipsey, p. 60).

As in the GATT, we have to deal with these invisible barriers under dispute settlement procedures, according to Dr. Lipsey.

(5.6) Score Zero. If, in a dispute, the American elephant disobeys the findings of an arbitration panel, the Canadian mouse has the right to retaliate under the FTA as under the GATT.

In his list of "How the Agreement Increases Security of Access", Dr. Lipsey cites "the dispute settlement procedures outlined in chapter 19" (Lipsey, pp. 16-17). Chapter 19 of the Agreement is on "Dispute Settlement in Antidumping and Countervail Duty Cases." The risk before the Agreement was:

> the misuse of (U.S.) . . . fair trade laws (against us because of) the U.S. political and economic climate rather than Canadian . . . policies . . . The frequent use of (such laws as countervail and antidumping) tends to undermine the basic principle of liberalized trade: that market competition should determine trade patterns. (Lipsey, pp. 4-7).

There is a dispute if we think the Americans are misusing regulations or laws and they do not think so.

> Disputes on the general operation of the Agreement are to be overseen by a cabinet-level committee and referred, if necessary, to a binational dispute settling panel. (Lipsey, p. 12).

In earlier conversations that I had in this chamber with the honourable Leader of the Government, he disputed that the Canada-U.S. trade commission would have to deal with such disputes. Yesterday, however, he was quoting Lipsey approvingly. I assume that he has read Lipsey, but perhaps that is a dangerous assumption. At any rate, I will hold him responsible for what Lipsey says:

● (1520)

That dispute settlement mechanism does not give us any more than we had before. Here is what the FTA says about what happens next, after a dispute has gone to arbitration:

> If a Party fails to implement in a timely fashion the findings of a binding arbitration panel and the Parties are unable to agree on appropriate compensation or remedial action, then the other Party shall have the right to suspend application of equivalent benefits of this agreement on the non-complying Party. (Free Trade Agreement, Article 1806.3)

That is exactly what Dr. Lipsey says happens in the GATT:

> Trade disputes are initially dealt with by GATT panels which decide whether or not particular national policies conflict with that country's national obligations. Dispute resolution then usually occurs on the basis of consensus and compromise. This process . . . leads members to change their policies voluntarily when these are ruled to be inconsistent with GATT obligations. If this is not done, the only recourse for the offended parties is to take retaliatory action that has an effect equivalent to that of the offending policy. (Lipsey, page 3)

For the relevant GATT texts, I would refer you to item 3.2 above in this text.

Surely, Dr. Lipsey has read the last two paragraphs which demonstrate, if language means anything, that in the FTA, as in the GATT, the settling of disputes comes down to the identical thing: the right to retaliate. How can he say we have a new dispute settlement mechanism that "increases" security of access when under the FTA we have exactly what we already had under the GATT?

(5.7) Again, I score zero. The elephant may kick the mouse, but dare the mouse kick the elephant? On retaliation as the ultimate recourse in case of disagreement on how to settle a dispute, Dr. Lipsey writes that Article 2005 of the Agreement—

> . . . illustrates that the United States had always reserved the right to retaliate in kind against Canadian cultural policies (or any other policies for that matter) that hurt its interests . . . Surely Canada would never have agreed to allow the United States to adopt the policy that upset the agreement without reserving the right to retaliate . . . (Lipsey, page 109).

But can retaliation be used by the Canadian mouse against the American elephant? Dr. Lipsey approvingly quotes Professor Paul Wonnacott on this. Writing of retaliation we could

apply if the U.S. contravenes the Auto Pact, Professor Wonnacott states:

> . . . one may ask whether this threat could be carried out in practice . . . Serious thought . . . would have to be given to the danger of U.S. (counter) retaliation. (Lipsey, page 65).

For a more extensive discussion on this matter, please see items 3.8 and 3.9 above.

Referring now to item 5.8—and these are all these wonderful items that will increase access, according to the honourable Leader of the Government, citing Dr. Lipsey as his evidence.

Negotiations with the United States over the next seven years to develop an agreed code on subsidies are not necessarily good for us. Again, here is Dr. Lipsey. So far, all the "gains" Dr. Lipsey sees in the free trade deal turn out to be things we already had. Can we hope the Agreement will make things better in the future? Dr. Lipsey writes:

> The Agreement improves the prospects for increasing future access by requiring consultations . . . to develop an agreed code on subsidies and antidumping . . . (Lipsey, pages 17 and 22).

However, he says he—

> . . . is not yet persuaded that an agreed subsidies code would be in the national interest. (Lipsey, page 21).

Therefore, he seems to be saying that something which may not be an advantage is, nevertheless, an advantage. I do not follow the logic of that. I hope the honourable Leader of the Government, when he came to that point, paused.

As for the success we are likely to have in negotiating with the U.S. mutually advantageous common rules on countervail and antidumping, Raymond Koskie, a Toronto lawyer and a member of the Economic Council of Canada, writes:

> Canada has, however, committed itself to reviewing its own and U.S. trade laws with a view to harmonizing trade legislation within the next five to seven years. These negotiations will take place after Canada has already made its major concessions outside the social policy, culture and natural resources conservation area . . . (This leaves Canada) in a weak position to obtain substantial progress on U.S. trade legislation without making important concessions on social policy and other matters of essential national interests.

This quotation is taken from page 36 of *Venturing Forth*, which is an Economic Council of Canada publication. For the concessions that Canada has already made in negotiating the FTA, see items 5.9 to 5.16 below, and we will come to those.

(5.9) Score minus: Dr. Lipsey points out that some articles of the FTA permit us to discriminate against U.S. firms, goods, services or investments, if such discrimination is already in place before the Agreement goes into effect. However he does not point out that Article 2011 of the FTA takes the permission back.

The FTA, according to Dr. Lipsey,

> . . . protects existing discrimination laws . . . The Agreement leaves in place most existing policies that discriminate between foreign and domestic firms and products. Existing programs, practices, and policies are exempt from all obligations of the Agreement, except where they are explicitly included. By such blanket 'grandfathering' of laws as varied as those that control ownership of Canadian energy firms . . . the Agreement guarantees that its impact, outside of trade barriers, will be on new laws rather than existing ones. (Lipsey, page 12)

But Article 2011 of the FTA could cancel this protection of existing Canadian laws if the Americans decided to get tough about it since Article 2011 of the FTA says:

> If a Party considers that the application of any measure, whether or not such measure conflicts with the provisions of this Agreement, causes nullification or impairment of any benefit reasonably expected to that Party, directly or indirectly under provisions of this Agreement, that Party may . . . proceed to dispute settlement . . .

Hon. C. William Doody (Deputy Leader of the Government): I wonder if the honourable senator could enlighten me a little. I have in my hand a copy of his document entitled the "Free Trade Agreement—Introduction". Is that document compliments of Senator Gigantès, or is it a government document? Is it published by some department? Who is the author of this document?

Senator Gigantès: This document I wrote all by myself on my own word processor, with my own hands.

Senator Doody: Your modesty is touching. There is no author identification on the document that I have on my desk.

Senator Gigantès: I told honourable senators when I started that the document was of my own devising—

Senator Doody: I must have been inattentive.

Senator Gigantès: That is highly regrettable. I am glad to repeat that I am the proud author of the document that you hold in your hands. There is not a word in that document, except for the citations, that has not been written by me; the quotations were found by me; the research was done by me.

Senator Doody: Does it mesh in with the text that the honourable senator is delivering?

Senator Gigantès: Yes, it does. From time to time I interject a few little reminders of what your honourable leader has said here and there.

• (1530)

Senator Doody: There are no directions with this. I was wondering if we could follow your text.

Senator Gigantès: If you take the whole document and turn to page 3, you will see that there are directions on how to find your way through it, sir. I provided it especially for people who might find reading it difficult, as there are some members of this government—

Senator Flynn: Senator Corbin is very unhappy that you have made your remarks only in English.

Senator Gigantès: I do regret his unhappiness. There are translators, and there will be a printed text in French. I will circulate that when a French-speaking constituent asks me about it.

Hon. Eymard G. Corbin: On a point of personal privilege, I should like to state that I have said no such thing that Senator Flynn attributes to me. I have been silent.

Senator Flynn: I know. I was trying to interpret your silence.

Senator Gigantès: Senator Flynn, the sooner you let me continue the sooner this sitting will end.

Senator Barootes: This torture.

Senator Doody: Who can refuse an offer like that? Continue!

Senator Gigantès: Of course, when one gives the facts, people who do not want to hear them consider it torture. You prefer pictures of adult babies saying that they like Huggies.

Senator Barootes: Are you ashamed to sign this?

Senator Gigantès: No, sir, I am not ashamed at all. I claim it with great pride.

(5.9) Score Minus. Dr. Lipsey points out that some articles of the FTA permit us to discriminate. Bluntly put, using Article 2011 of the FTA, the Americans could say, "In light of what we consider reasonable, your measures are denying us a benefit we had expected: the Agreement states that we have the right to make this claim even if the measures you took existed before the Agreement. It says so, right here, in Article 2011." This is a piece of dialogue with Americans that I invented, Senator Doody.

Hon. Efstathios William Barootes: Sir, may I ask a question?

Senator Gigantès: If we disagree on this we go to dispute settlement, and in that procedure the bottom line for the FTA is the same one we had under the GATT.

Senator Barootes, I will be right with you.

Senator Frith: Submit them in writing on Saturday.

Senator Gigantès: If one partner decides to be tough and break the rules, the other can retaliate; the mouse kicks the elephant or the elephant kicks the mouse. In this sort of scenario, it is clear that Article 2011 can be used to very much greater effect by the Americans than by us (See items 5.6 and 5.7.)

Would you like to prolong this? I thought you people were in a hurry to send this bill to committee. Do you not want the answer to the leader's speech completed so that others can make speeches and it can go to committee?

Senator Barootes: Senator Gigantès, this is my question: Does the paragraph that says the Americans have the right to cancel apply to Canadians having the right to cancel?

[Senator Gigantès.]

Senator Gigantès: I come to that right now.

Senator Barootes: Does it apply bilaterally?

Senator Gigantès: Yes, it does.

Senator Barootes: If it does, are you not expressing only the American advantage? Are you anti-American, similar to the man you followed previously in the government administration of a former period? This is pure anti-Americanism.

Senator Sinclair: What utter nonsense!

Senator Gigantès: I will come to that later. On page 26, if you have been listening, senator, or have read—and as I say, there are too many people who do not—under 5.7 in the second paragraph I said: But can retaliation be used by the Canadian mouse against the American elephant? Dr. Lipsey approvingly quotes Professor Paul Wonnacott, who is a defender of the trade deal, on this. Professor Wonnacott states:

> ". . . one may ask whether this threat could be carried out in practice . . ."

This is a threat by us to them.

> Serious thought . . . would have to be given to the danger of U.S. (counter) retaliation.

Twenty-four per cent of our gross domestic product is involved in trade with the U.S. Two per cent of their gross domestic product is involved in trade with us. Therefore, retaliation by them against us is much more effective than retaliation by us against them. It affects, as I will tell you later, one Canadian in four if they retaliate, and it affects one American in 50 if we retaliate.

Perhaps you can read this at your leisure. Perhaps you could join Mr. Crosbie and encourage him to do some reading himself. You will see that it is you who are the anti-Americans, because I do not assume they are monsters; you do.

Finally, in many instances, this protection of grandfathering, as Dr. Lipsey calls it, will be meaningless. Our agricultural marketing boards are grandfathered by the FTA, but that will not help at all; according to one of Canada's most successful businessmen, Harrison McCain of the multinational food company that bears his name:

> In the case of this particular deal (the FTA) I'd have to say, don't dupe us in the food industry. The problem is that we have to buy our mozzarella cheese for the pizzas we make in Canada through marketing boards. That means it costs 39 per cent more than it would in the United States. At the moment the Americans are not allowed to ship their cheese into Canada. But with free trade they'll be selling their pizzas here duty free. How do we buy cheese in Canada at 39 per cent more and still be competitive? We can't be. And we have exactly the same problem with our frozen dinners because of chicken marketing boards, and so on. Mr. McCain says that if such circumstances were to make the continued presence of his plants in Canada untenable, "we're a multinational and have other options. Unfortunately our employees and growers don't." In other words, he'll transfer production to his U.S. installations and ship in pizzas and frozen

dinners from there into Canada. (*Maclean's*, May 1988, p. 46)

The next item is (5.10). Again, I score zero.

Senator Corbin: There are 600 jobs in my home town that will disappear.

Senator Gigantès: 600 jobs in your home town.
[*Translation*]

I am going to say it in French. In Senator Corbin's home town, 600 jobs will disappear.
[*English*]

(5.10) Score zero. Under the FTA, America gives Canadian firms the right to relocate in the U.S. But they had been doing so anyhow at an ever increasing rate before the FTA.

> National treatment is extended to the establishment in the United States of Canadian business enterprises covered by the Agreement. See Lipsey, page 15.

However, again Mr. Lipsey says:

> Canada is an important investor country; its stock of investment in the U.S. is increasing about three times as fast as . . . U.S. investment in Canada. It is, therefore, in Canada's own interest to get rules of national treatment . . . before there is any backlash against the rapidly growing stock of foreign investment in the United States. A decade from now, this . . . may turn out to (be) one of the most far-sighted measures in the whole Agreement. See Lipsey,, pages 88 to 89.

So, Canadian businesses have been relocating in the U.S. at a very fast rate. The American authorities are not putting a stop to this movement of capital from Canada to the U.S. Since the U.S. has an enormous current account deficit, it needs every dollar of foreign capital that comes in to compensate for this deficit. In household terms, the U.S. owes so much that it must sell assets to keep afloat.

Can the Americans shut their doors to a substantial part of the foreign capital that flows into the U.S.? Only if the U.S. stops spending more than it earns on the world market. There are two ways the U.S. can do that: One is to sell more abroad; the second is to block imports and replace them with more expensive products made in the U.S.

To follow the second course, the U.S. would have to break just about every rule in the GATT. And if the U.S. gets into a treaty-breaking mood and breaks the GATT treaty, it would also be breaking our Free Trade Agreement, so much of which, in effect, simply reaffirms rights we have under the GATT. For example, see items 5.1 to 5.6.

We must judge the security the Free Trade Agreement gives us by what is likely to happen if the U.S. turns tough, not if things remain more or less normal between us.

If things do remain more or less normal, if we suppose that a possible U.S. backlash against the rapidly growing foreign ownership is a mild and reasonably selective backlash, then we might go relatively unscathed. The Americans will hardly fear becoming vassals of Canadian entrepreneurship, however formidable it may be. As we shall see later, it is domination by Japanese and German capital that the U.S. fears.

(5.11) Score Zero. On increasing protection for Canada's right to set its own policies, in the face of harassment through U.S. countervail actions, the Free Trade Agreement scored zero, says Dr. Lipsey. In sum, here is how Dr. Lipsey describes our progress in curbing the American's main non-tariff barriers to trade: We "will be at risk to U.S. countervail action as much, no more, no less, as . . . before the Agreement. It seems reasonable to judge the Agreement on the balance between its pluses and minuses and not on the places where it scores zero." So when it comes to increased access, secure access, adequate institutional arrangements, Dr. Lipsey himself, who has been quoted by the Leader of the Government, says we score zero.

Item 5.12. Score minus. The FTA gives the Americans guaranteed and unlimited access to our energy resources at the same price charged to Canadians. In exchange, the U.S. promises not to keep out our energy exports if these are competitive in price.

Here are the relevant passages of the FTA: Article 904(a) states that neither party may "reduce the proportion of the total export shipments of a specific energy good made available to the other Party relative to the total supply of that good" in the exporting country. In other words, if we have been selling half the energy we produce to the U.S. and lower our production, the U.S. will still be entitled to half our lower production. This is not anti-American; this is factual.

Article 904(b) of the FTA states that neither party may "impose a higher price for exports of an energy good to the other Party than the price charged for such energy good when consumed domestically" by the exporting party. It is by offering energy at less than the export price set by the free market that we attracted investment to Canada; for example, the Pechiney and Reynolds aluminum plants in Quebec. This was one important attraction we offered to counter the many ways the U.S. has for luring investors. Professor Wonnacott tells us that:

> choice of U.S. over Canadian sites (for building Japanese car factories) was not simply the result of market forces. The Japanese were responding to political pressures in the United States, and the establishment of plants in Canada would have done little to ease their political problems south of the border.

This is from Dr. Lipsey's book, pages 67 and 68.

One instrument we had to compensate for such U.S. behaviour was cheap energy. We gave up this instrument; the U.S. has not given up its pressure tactics to attract foreign capital. I do not blame the U.S. If we were in their position, we would do the same.

I score minus for Canada in the energy field because the Free Trade Agreement will stop us from using our energy to compete with the U.S. for investment.

However, it is precisely for this selfsame reason that Dr. Lipsey gives a plus to this provision. He dislikes a two-price

system for energy, one lower for domestic consumption and a higher price for export. He gives three reasons for his view:

> domestic price of energy below the world price . . . (1) discourages the development of new sources of supply. (2) It is nationally divisive because it forces the energy producing provinces to subsidize the energy consuming ones. (3) Furthermore, alternative tools are available to satisfy any goal of policy . . . Energy can be taxed and revenues used . . . for the benefit of consumers or firms.

That can be found at pages 56 and 57 of Dr. Lipsey's book.

Let us deal with Dr. Lipsey's three arguments.

Senator Barootes, we are on page 30. Argument 1 refers to the three arguments in the last paragraph and the penultimate paragraph on page 29.

What keeps private companies from developing our tar sands and our offshore oil fields on their own is that the world price for oil is too low. Such megaprojects as the tar sands extraction plants and Hibernia cannot be profitable without government help, as Senator Doody knows full well and as Senator Barootes knows with regard to Lloydminster.

Canadian governments, both Liberal and Conservative, have sunk billions into these megaprojects for reasons other than the profit on the next quarter's balance sheet. Governments, or rather Canadian taxpayers, absorb a considerable part of the development costs so that the megaproject energy can be sold at the world price; for the foreseeable future, energy from such projects will be sold at competitive prices only because we Canadians subsidize it. If our governments stop subsidizing energy projects, these projects and the economic activities they stimulate will stop, and I do not think that Saskatchewan, Alberta or Newfoundland would like that. If we continue subsidizing energy projects, we will be subsidizing U.S. consumers of Canadian energy, since we must sell them energy at the same price we charge Canadians.

Argument 2. Dr. Lipsey argues that—

Senator Barootes: Why aren't you bringing self-sufficiency into your argument, or security of supply?

Senator Gigantès: Terrific! Wonderful! This is a great Conservative argument—let's bend the market rules.

Dr. Lipsey argues that having lower oil prices for domestic consumption than for export is "nationally divisive because it forces the energy producing provinces to subsidize the energy consuming ones." Why should it? There is nothing that says that Canadians cannot guarantee to the energy producing provinces the right to sell their energy to other provinces at the free market price. Let us put the guarantee in the Constitution, if necessary. Then each producing province could offer energy at less than free market price for industries that settle in that province. Resource provinces could, thus, diversify.

Argument 3. If we tax energy and use the revenue to benefit firms here in Canada, these could be attacked by competing firms in the U.S. for "being unfairly subsidized", as has been happening in the past through the American countervail laws which have now been enshrined in the FTA. See item 3.6 above.

But would the Americans feel so resentful that we might not charge as low a price as we charge ourselves that they would stop buying energy from us? Of course not, provided we sold them energy at the free market price—they would not buy for more than that. We could offer to the Americans contracts long-term enough, but indexed, to let them feel safe in building whatever pipelines and electricity transmission lines were necessary. In any case, the Americans know that since they are our largest customer, we would not risk losing their custom by playing fast and loose with their supply. Moreover, to whom would we sell our electricity or our gas if we did not sell it to the U.S.?

The Americans want safe sources of energy supplies. Aside from their own dwindling stocks, we are their safest source. It is hard to conceive of their shutting us out of their market if we sold at the free market price, no more, no less.

Item 5.13. Score minus. The FTA rules for trade in automobiles and their parts will allow manufacturers to "export" the high-technology jobs to low-wage countries.

As another instance of "how the Agreement increases access"—one of the instances quoted by the Leader of the Government, Dr. Lipsey cites article 1005 to claim that "the Agreement changes the rules of origin for automotive products to provide more protection against offshore parts producers and, thus, to increase the access of Canadian and U.S. parts producers to each other's markets." See Lipsey, page 15.

Article 1005 of the FTA simply cites point 4a of the Annex to Article 301.2:

> the value of materials originating from the territory of either Party or both Parties used or consumed in the production of the goods, plus the direct cost of assembling the goods in the territory of either Party or both Parties constitute no less than 50 per cent of the value of the goods when exported to the territory of the other Party.

• (1550)

The introduction to chapter 10 of the Free Trade Agreement puts it more simply. It states that 50 per cent of the direct production costs of any vehicle trade under the Free Trade Agreement will have to be incurred in Canada and the U.S. to qualify for duty-free treatment.

In answer to this I should like to quote Mr. Grant R. Wilson, a supporter of free trade and past-president of the Canadian Automotive Parts Manufacturers Association, who said:

> With a 50 per cent rule of origin, we feel we are possibly going to lose the technological base of our industry, that being the power train, the engine of our automobile.

This is from the *Minutes of Proceedings and Evidence* of the House of Commons Legislative Committee on Bill C-130, An Act to implement the Free Trade Agreement, July 28, 1988, page 19:21.

To put it even more simply, North American auto manufacturers can have all the high technology done abroad, under the FTA, and can fulfil their requirement for 50 per cent North American content by having the low technology and the assembly done in either the U.S. or Canada. This would only accentuate the existing trend among U.S. car manufacturers to have as much of their high-tech production done offshore, which means exporting good jobs to Asia and Latin America.

(5.14) Score Zero. Our Minister of Finance does not guarantee that lower tariffs will bring lower prices for consumers.

Asked whether he could guarantee that the wholesalers and retailers would pass on to the consumer what savings they make from a reduction in tariffs, the Honourable Michael Wilson, P.C., M.P., said: "I do not think that anyone in the world can guarantee things for Canadians." I refer to *Commons Debates*, August 12, 1988, page 18264.

(5.15) Score Zero. Canadian small businesses are unlikely to benefit from the $4 billion in U.S. government spending available to Canadian enterprises under the FTA.

American small businesses will receive preferred status over their Canadian counterparts when Washington allocates the portion of U.S. spending set aside for this category of business; so says Ms Catherine Swift, Research Director for the Canadian Federation of Small Business. They are artisans of the Free Trade Agreement. They state:

> We're not delighted with the government procurement provisions in the Agreement. There's no advantage to small firms. (*Financial Post*, July 5, 1988)

Ms Swift was voicing an inevitability, considering that: "... Under the Free Trade Agreement, Canada has been excluded from bidding for large U.S. government purchases in aircraft and components, ships, communications equipment and electrical and electronic equipment components." That is a quotation from *Venturing Forth*, a publication of the Economic Council of Canada, pages 39 to 40.

This is a publication that the government has been waving in the air to prove how great the agreement is. They haven't read it, obviously.

Hon. Gildas L. Molgat: Will Senator Gigantès permit a question?

Senator Gigantès: Yes, sir.

Senator Molgat: I want to verify this one particular item that you mentioned—that is, the communications equipment. We know that Canada has a substantial expertise in this field. Will our Canadian firms not be able to bid on U.S. government contracts?

Senator Gigantès: So it says in the Economic Council booklet entitled: "*Venturing Forth*," on pages 39 to 40. They are saying this to explain why the jobs that they calculate after the agreement was published are so many fewer than the jobs they were calculating before it was published, when they were operating on Mr. Mulroney's "wish list" rather than the actual text.

Senator Barootes: Horse feathers! Pure horse feathers!

Senator Frith: Those, too!

Senator Gigantès: Those are not included in the agreement, senator.

Senator Frith: No, that was on horse feathers. They move freely across the border!

Senator Gigantès: Take this document entitled "*Venturing Forth*". You have it. Look at pages 39 to 40. Read it for yourself. Reading is improving, you know; television by itself is not enough.

As our small businesses were not getting a share of U.S. government procurement before the FTA, there is no change and the score of zero is warranted.

We are now on page 32.

(5.16) Score Minus. It will be much harder, under the FTA, to establish national or provincial programs like auto insurance or, say, a national drug purchasing plan, if we finally conclude that we were totally shafted with Bill C-22, as seems likely.

Article 2010 of the FTA says that "subject to Article 2011, nothing in this Agreement shall prevent a Party from maintaining or designating a monopoly ... And where the designation may affect interests of persons of the other Party, a Party shall ... endeavour to introduce such conditions ... as will minimize or eliminate any nullification or impairment of benefits under this Agreement."

Let us assume that yet another Canadian province decides to establish a crown corporation to provide auto insurance; or let us assume that Canadian governments decide that the chemical and drug multinationals are charging us too much for their products and do not do enough research here. That government might wish to establish a crown corporation to buy and distribute prescription drugs, pesticides, herbicides and fertilizers.

Senator Barootes: The NDP!

Senator Gigantès: Being a powerful monopoly buying for the whole Canadian market—

Senator Haidasz: He said "fertilizer."

Senator Barootes: That is the NDP.

Senator Gigantès: —that corporation could force down prices and use its profits to finance massive research within Canada. After the FTA, Canadian governments would not be able to afford such initiatives.

Bluntly put, the American insurance conglomerates and the drug and chemical multinationals would say—and here I imagine what they would say—"in light of what we consider reasonable, your measures are denying us benefits we had the right to expect for many years to come. It is not a simple matter of reimbursing us for our installations here or buying us out at fair market price. It is also a matter of what profits we expected to make from now until forever: the Agreement states we have the right to make this claim. It says so, right here, in Article 2011."

[*Translation*]

Hon. Paul David: Why is it in quotes?

Senator Gigantès: Honourable senators, this passage is in quotes because I said: "They would say". I said that.

[*English*]

Article 2011 says:

> If a Party considers that the application of any measure, whether or not such measure conflicts with the provisions of this Agreement, causes nullification or impairment of any benefit reasonably expected to that Party, directly or indirectly under the provisions of this Agreement, that Party may... proceed to dispute settlement.

In the FTA dispute-settlement procedure, if one partner decides to be tough and to break the rules the other can retaliate; the mouse kicks the elephant and the elephant kicks the mouse. In this sort of scenario it is clear that Article 2011 can be used to much greater effect by the Americans than by us. See items (5.6) and (5.7) above.

We now come to item (5.17).

(5.17) Score Minus. The FTA forbids us to ask that foreign companies in Canada buy parts here; export part of their Canadian production; sell shares to Canadians; do some research in Canada.

● (1600)

Article 1603 of the FTA states:

> Neither Party shall impose on an investor of the other Party, as a term or condition of permitting an investment in its territory, or in connection with the regulation of the conduct or operation of a business enterprise located in its territory, a requirement to (a) export a given level or percentage of goods; (b) substitute goods or services from the territory of such Party for imported goods or services; (c) purchase goods or services used by the investor in the territory of such Party or from suppliers located in such territory or accord a preference to goods or services produced in such territory; or (d) achieve a given level or percentage of domestic content.

Please note that research, of course, is a service and we cannot demand that research be done here.

Dr. Lipsey lists the above FTA Article among "what Canada has given up." He comments: "Canada will no longer demand performance requirements of U.S. firms investing in this country. Insofar as they relate to exports and imports, these requirements are not consistent with Canada's GATT obligations . . .".

I now turn to page 33 of the text. Dr. Lipsey seems to forget that the U.S. took us before a GATT dispute settlement panel over these very same requirements that were being set for U.S. investors in Canada by the Foreign Investment Review Agency. The GATT found that we had the right to impose these requirements. We gave up that right in the FTA.

Any time we shall try to impose conditions on Canadian investors, if we want to, they will, naturally, say that we make them uncompetitive because their U.S. competitors within Canada need not feel bound by those same conditions.

(5.18) Score Minus again. Canada may no longer prevent the takeover of any Canadian firm by Americans. The Annex to Article 1607.3 of the FTA says that "commencing on the third anniversary of the date of the entry into force of this Agreement (Canada will not review takeovers by Americans of Canadian firms worth less than) current Canadian $150 million."

Any self-respecting corporate lawyer—and there are many in this chamber—can divide any company into separate entities each worth less than $150 million. Article 1607.3 of the FTA, in effect, removes all limits on American takeovers of Canadian businesses.

On the danger foreign takeovers represent for national independence, here are the views of Felix Rohatyn, the senior partner of Lazard Freres, a major American merchant bank. Rohatyn, a U.S. citizen, is often credited with saving New York City from bankruptcy some years ago. He said:

> More than two hundred years after the Declaration of Independence, the United States has lost its position as an independent power. While we are still without question the world's leading military power, our predominance in weapons does not give us the freedom to act on our own... U.S. assets owned abroad... may consist of... controlling interests in many of our major companies and financial institutions... Should we allow SONY to acquire control of Time Inc.?... Would we allow... foreign control of the Morgan Bank?... We must be able to carry on our business whether or not it is in Japan's interest... or... in Europe's interest... No other major industrial power... certainly not Japan, and not even Great Britain allows major companies of strategic importance to be acquired by foreign interests... A highly selective review mechanism may become necessary...

Shades of fear. He goes on to say:

> ... this would not cause the flight of foreign capital any more than such procedures have caused capital flight from the U.K., Germany or Japan.

If honourable senators wish to verify this quotation, it can be found in the *New York Review of Books* of February 1988.

As senior partner of Lazard Freres, Mr. Rohatyn is as globalized as can be. He shifts billions in all currencies from one end of the earth to the other, daily. If he worries about the giant American economy losing its independence because of foreign ownership, surely there must be some danger in the foreign ownership of a small economy like Canada's.

To recapitulate: Before the FTA, and while we still had the Foreign Investment Review Agency, we could say to an American firm buying a Canadian firm, "You must continue the research activities of the Canadian firm. You cannot shut down its foreign operations. You must offer a fair proportion of the company shares to Canadian investors." We cannot say that now, after the FTA. Now Americans can buy any promising Canadian firm and move all that matters in it, including

the brain power, south of the border, and we have renounced the right to stop them. See item (5.18) above.

There is no reason why a U.S. multinational with splendid research laboratories in Denver or Santa Barbara would want to duplicate part of its research here. It is cheaper to move talented Canadian researchers south. We could say, before the FTA: "It is your right to invest here or not, but if you want to invest here, we want you to do research here; buy parts here; subcontract here; export some of your production. You do not have to come here if you do not like these conditions." After the FTA, we can no longer impose such conditions. I would refer senators to item (5.17) above.

Before the FTA, foreign investors were not put off by our rules. American investors certainly were not; otherwise, how is it that they have bought so much of our economy already?

We have given up the right to use our abundance of energy to lure investment here. After the FTA, the next generation of petrochemical plants will be built south of our border, using raw materials from western Canada to which the Americans will have rights equal to ours, at Canadian domestic prices. See item (5.12) above.

Cheaper energy for foreign investors choosing Canada over the U.S. was one important attraction we offered to counter the many ways the U.S. has for luring investors. A proponent of the free trade deal, Professor Paul Wonnacott writes, nevertheless, that—and I repeat his very important quotation—the "choice of U.S. over Canadian sites (for building Japanese car factories) was not simply the result of market forces. The Japanese were responding to political pressures in the United States, and the establishment of plants in Canada would have done little to ease their political problems south of the border." That is from Dr. Lipsey, pages 67 to 68.

However, without even the lure of cheaper energy, all the foreign investors our cabinet hoped to entice through the FTA have no incentive to choose Canada over the U.S. Please see item (2.6) above. If they locate in the U.S., they can compete for the nearly half trillion of dollars spent on procurement by the various levels of the American government. The FTA gives Canadians the right to compete for less than one one hundredth of this U.S. procurement pie. We are allowed to compete for $4 billion.

The U.S. says that it will challenge our right to insist that east coast fishermen land their catches in Canada. Should we lose that case, any smart Canadian entrepreneurs buying the latest in factory trawlers would be financially improvident if they did not land their catch in Boston or New York to save transport costs; and they would be further improvident if they did not build their new fish processing plants in Boston or New York, again to save transport costs from Newfoundland.

In fact, any successful Canadian manufacturer, who expands and who wants to save on the cost of transporting his products, will build his expansion plant in and near his bigger American market, not in his smaller Canadian market. These are not imaginary fears; they are simply common sense for the ambitious businessman. The FTA bestows "American corporate citizenship" upon those Canadian entrepreneurs who want to move to the U.S. As says Harrison McCain, the giant food processing firm, "We're a multinational and have other options. Unfortunately, our employees and growers don't." In other words, he will transfer production to U.S. installations and ship frozen food from there into Canada. That reference is from *Maclean's*, May 1988, page 46.

• (1610)

The issue is not whether the particular Canadian policy tools that the trade deal renounces are good or not. The issue is that we are renouncing them through a treaty with a neighbour ten times our size, who is also our major commercial partner. This is very binding for us, the much smaller partner. To use a metaphor, through this trade deal we are like a driver whose steering wheel is blocked so that it will only turn in one direction. It may be the right way to turn now, but some may think that an unblocked steering wheel is safer.

Should this Canadian Parliament approve this trade deal, it will be much more costly for future Canadian Parliaments to launch new programs of government intervention—see item 5.16—to promote employment, research, development or use our abundant energy to attract investment here, as in the past. We could launch such programs, but Americans might ask us for heavy compensation because our government programs might be taking future benefits away from U.S. entrepreneurs. We gave up so much to gain increased and secure access to the U.S. market, and we did not get it.

In sum, the evidence shows that we got far too little and we gave far too much. Scoring a plus for an advantage gained, a minus for an advantage lost and a zero for no change, the Free Trade Agreement gives Canada no pluses, 12 zeros and 6 minuses, out of 18 points. The U.S. scored the converse: 6 pluses, 12 zeros and no minuses.

I now come to proposition 6. There was a better alternative for Canada that the U.S. would accept, even now, instead of the FTA: a free trade area in tariffs alone, immediately; abolish the rest of the tariffs in ten years; negotiate everything else as always, adapting to the circumstances as they change. This is, in effect, what Donald Macdonald was saying, and what Senator van Roggen said in his earlier reports. These inclusions of financial institutions, services and investment groups are totally new, and they are a change from the fundamental thought that went into those earlier reports. So when the Leader of the Government in the Senate tries to say that what we have here is a continuation of what was happening earlier, I am afraid he is either deceiving himself or he is ill informed.

Admittedly, so vast and so complex an economic relationship as the one we have with the U.S. needs adjustment when the terms of trade change and the terms of global trade have certainly changed for the Americans. They are adjusting to change and so must we.

We are on page 35, Senator Barootes.

A useful suggestion on how to adjust was made by Canadian big business through its spokesman, Mr. Thomas d'Aquino. He

is the President and Chief Executive Officer of the Business Council on National Issues, the BCNI, the major leaguers' club of Canadian enterprise whose 155 companies have revenues equal to half the total revenues of Canada, or so they say. Speaking to a convention of the U.S. Federal Bar Association on September 13, 1985 in Detroit, Mr. d'Aquino said:

> I believe our respective governments should move quickly to declare their support for a Comprehensive Trade Agreement and begin the process of negotiation this autumn. The agreement itself would, of necessity, follow along the lines of a free trade accord as defined by Article XXIV of the GATT. Given the various options under the GATT for establishing a regional trade agreement, it would be appropriate to first negotiate an interim agreement leading to the establishment, over time, of a bilateral agreement consistent with the GATT rules.
>
> The most important requirement is that 'substantially all trade' between the parties be freed under the terms of the regional agreement. Previous experience suggests that the freeing of trade in 80 per cent of traded goods is sufficient to meet this test.

Mr. d'Aquino, an attorney who specializes in international economic law, would be particularly careful about his choice of words when addressing a convention of U.S. lawyers on the matter of free trade, an issue of most vital interest to the Canadian entrepreneurs that Mr. d'Aquino represents.

The key words used by Mr. d'Aquino are: negotiate an interim agreement consistent with the GATT rules, freeing trade in 80 per cent of traded goods. There is nothing about services, investment or sharing of resources; only goods. Mr. d'Aquino often points out that close to 80 per cent of all trade in goods between the U.S. and Canada flows across the border free of tariffs. So, in effect, Canada's major business people were proposing that we convince the U.S. to start with an "interim agreement" that would give to the status quo the name of a regional free trade area, as defined by GATT, which covers only trade in goods.

The emphasis that Mr. d'Aquino placed on GATT is important because the GATT does not have an ideological aversion to subsidies:

> . . . Signatories recognize that subsidies are used by (GATT) governments to promote important objectives of social and economic policy . . . It must be demonstrated that the subsidized imports, through the effects of the subsidy, are causing injury (to the importing country) . . . and the injuries caused by other factors must not be attributed to the subsidized imports.

That quotation is from the GATT Tokyo Round Agreements, Articles 8 and 6. I put 8 first and 6 afterwards because the first part of the quotation is from Article 8 and the second from Article 6.

In Detroit in 1985, Mr. d'Aquino said that, over time, we could negotiate something more than an interim agreement, but still consistent with the GATT rules. In the meantime, by virtue of the interim agreement, we would be officially labelled fair traders by the U.S. and given better treatment than others.

Unfortunately, this BCNI strategy enunciated by Mr. d'Aquino in 1985 was not used by our cabinet. No doubt, after Prime Minister Brian Mulroney signed his deal with Mr. Reagan, many members of the BCNI must have asked what went wrong. The President of the Bank of Nova Scotia put down his dismay in a letter, which was leaked, saying that we gave too much and got too little. However, the agreement has been signed and it is safe to assume that BCNI members are wondering about the risks we might incur if we renounce this deal.

The d'Aquino strategy can still serve as part of an alternative to the Mulroney trade deal, an alternative that would not damage our relationship with the United States. We should tell Washington that America's main trading problems are with the European Economic Community, Japan and other Pacific Rim nations. They do not buy enough in goods and services from the U.S.; Canada does. It is with those other countries that the U.S. must reach an accommodation within GATT. What the U.S. negotiates with its small neighbour, Canada, cannot possibly serve as a pattern for a settlement with economic giants such as the EEC or Japan. On the contrary, a Canada-U.S. agreement that is biased too much in favour of the U.S. could make the other GATT partners wary and reluctant to make concessions.

So, for now, the U.S. and Canada should content themselves with a free trade area, as far as tariffs alone are concerned, and negotiate on the other issues in parallel with the GATT negotiations. We could suggest that the Canada-United States Trade Commission of the FTA act as the negotiating agent for the constant adjustment of our trade relations to make sure that our current accounts with one another remain balanced.

● (1620)

Obviously, in the GATT, the U.S. would be negotiating with 95 other nations. It would have to make more concessions in such a context than when dealing with us alone. Of all nations, we are the most dependent on trade with the U.S. and, therefore, the most likely to bow to American demands. Within the context of GATT negotiations, Canada would get the benefit of all the concessions the U.S. would make to others, and the price of those concessions would not be paid by us alone but would be shared with 95 others.

Would the Americans be furious if we did not go through with the FTA? Undoubtedly they would be disappointed, since the deal is so much to their advantage. But I do not think they would exact revenge; our relationship benefits them too much.

The Americans buy from us because it is to their advantage to do so. They are shrewd customers who know a good deal when they see it. If they could find a better buy, they would. In matters of trade, we should not expect our neighbours to act against their own interest, to cut their American nose to spite our Canadian face—that would be stupid and they are anything but stupid.

The proponents of the FTA contradict themselves. (A) To convince us that we should support the FTA, they say: the Americans are so mean and unfair that we need the Free Trade Agreement to tame them. See items 2.4 to 2.6 above. One argument of the proponents of the FTA, then, is that if we do not sign the agreement, this ravening American monster will kill us. Critics of the FTA suggest that it gives the U.S. power it can abuse to our detriment, to which the pro-FTA faction replies that its critics are essentially anti-American and always assume the U.S. will be unfair.

Senator Barootes: Are you?

Senator Gigantès: No, I believe the Americans are not going to be monsters.

Senator Barootes: Are you anti-American?

Senator Gigantès: I am not.

Senator Barootes: Thank you.

Senator Gigantès: We should not be so idiotic as to scare ourselves silly by seeing the U.S. as a ravening monster that is thirsting for our blood. I do not believe that the Americans wish us ill. They are good neighbours, as we are.

Besides, the EEC did a calculation for the government of what it would cost us if we did not go through with the FTA and the Americans pulled out all their protectionist stops—it would cost us 22,000 jobs over 11 years and some 8 cents per day per person. I would refer you to items 4.1 and 4.2 above.

Let us also remember that we are an infinitesimal part of America's trade and current account deficit problems. See items 1.1 to 1.7 above.

We are also America's most essential glacis, the buffer that separates the U.S. from Russia. We are faithful allies and the U.S. would not want to damage us economically or sap our genuine goodwill towards our southern neighbour through excessive trade bullying.

There are those who fear that our neighbours to the south will turn themselves into an economic "fortress America", severely protectionist. It is not an easy thing for the U.S. to do. Too much foreign capital is invested in the United States. Japan and West Germany are too powerful economically to be ignored by any U.S. administration and the U.S. owes them too much money to disregard their interests totally. Washington is much more sophisticated than in the era of the Smoot-Hawley Act, the infamous piece of protectionist U.S. legislation which brought on the great depression in the thirties.

Yes, the Americans will fight for more reciprocity in their foreign trade, even if this means bending the spirit of GATT. But they will not say "Stop the world; I want to get off".

The trick for us is not to be within the American fence or to be left outside it. Somehow we must straddle it and we have been very good at that in the past. The BCNI's Tom d'Aquino showed us how, in Detroit, in 1985. It was a better alternative for Canada, which the U.S. would accept, even now, instead of the FTA: a free trade area in tariffs alone, immediately; an abolishing of the rest of the tariffs in 10 years; negotiations about everything else, as always, adapting to the circumstances as they change.

I have concluded, honourable senators, except for one question I should like to put to the lawyers on the Conservative side and I hope they will be able to give me an answer in a few days. My question has to do with the chapter on agriculture. Article 711 of the Free Trade Agreement, to be found at page 88, gives definitions of agricultural goods and states:

> For purposes of this Chapter:
>
> agricultural goods means all goods classified within chapters 1, 2, 4 . . . 21 and 24 of the Harmonized System and all goods classified within the following specific tariff headings of the Harmonized System:

I have in my hand the Harmonized Commodity Description Code to which the agreement refers and I will be glad to give a photostat of it to any senator who wants to see it. One of the items mentioned is 2201, which appears at page 163 of the Harmonized Code, and it is "water". Item 2201.1 is "mineral water and aerated water"; item 2201.9 states "other". Further, it states:

> This heading covers natural water of all kinds other than sea water.

Honourable senators, already tankers-full of water are being exported from Vancouver. In Bill C-130 there is a notification that water is not included in the bill. It is, however, included in the agreement.

Senator Barootes: Do red herrings swim in water?

Senator Gigantès: It is in the agreement, honourable senators, and I think it is an oversight. I should like the government to go to the Americans and ask them to declare that bulk shipments of water are not covered by the agreement. It is not enough for us to say that they are not, because in that case the dispute settling mechanism will come into play, Article 2201 will come into play and the Americans may say, in the case of a major drought down the road, "If you don't give us water, you are denying to us benefits you could reasonably expect under Article 7. Therefore, we are going to retaliate against you." I ask the government to have a look at that and I thank senators for their patience.

Senator Molgat: Would Senator Gigantès permit a question?

Senator Gigantès: I will permit all the questions senators would like to ask.

Senator Molgat: In view of his exhaustive study of the subject, did he deal with the question of marketing boards and the effect that the Free Trade Agreement may have upon the continuation of those boards in the field of agriculture in particular? Secondly, what effect will the agreement have on the food processing industry in Canada? The reason I ask questions on this subject specifically is that in my own province of Manitoba there is at present an argument going on as to the effect the agreement will have on firms like McCain Foods and Carnation Milk, who have established major food processing plants in that province. McCain Foods, at least, has

said that it will have to cease production in Manitoba and move to the United States if the Free Trade Agreement goes ahead. Others say that that is not so. Has the honourable senator checked into this matter?

• (1630)

Senator Gigantès: Honourable senators, if a commodity that is controlled and regulated through a marketing board is sold here in Canada for more than a similar commodity is sold in the United States, people such as McCain, Carnation, *et al* would be foolish businessmen if they did not move their production to where the raw materials are cheaper, and, as Mr. McCain says, he can export his pizzas and his frozen dinners to Canada from the United States and pay 39 per cent less for cheese than he does here. I am not arguing for or against marketing boards, but the fact is that the Americans have a much longer growing season than we have. It is obvious that it must cost them less to grow food than it costs us here. Inevitably, because of heating costs for the plants, et cetera, the food-producing and processing industry, according to Mr. McCain—and I cannot fault his judgment—will move south of the border.

Hon. Ian Sinclair: I wonder if the honourable senator could assist us. You raised the question of water, sayng that it is provided for in the agreement both in the narrow sense and in the broader sense.

Senator Gigantès: On that point, senator, I am not sure. I asked the lawyers to elucidate this area.

Senator Sinclair: Let me put this to you—

Senator Gigantès: Very well.

Senator Sinclair: The honourable Mr. Crosbie has said that bulk water is not included in the agreement and, as you said, there is an exclusion of it in Bill C-130. However, you point out that that is unilateral. Have you looked into the proposition that where both sides agree on a matter that is only interpretative, there does not have to be anything other than a signatory of both parties to carry out the interpretation? What I am saying is that, if Mr. Crosbie says it is not included and if Mr. Yeutter says it is not included, then all that is needed is what we might call a side letter or a side agreement of interpretation, and all that requires is a signatory on each side of the agreement to sign it. Have you looked into that question?

Senator Gigantès: Indeed, I should like to see that provision. I have not seen that yet. However, I agree with you, sir, that, if both sides agree in writing that this is how a specific article should be interpreted, that indeed bulk water is not included and this is actually then stated in writing by both parties, then it is covered. I believe that is the intention of the government; but I am saying that the way in which the text is now phrased, unless we get such an instrument as you suggest, sir, then down the road many years from now we might find ourselves without legal coverage on this issue.

[*Translation*]

Senator David: Honorable senators, I listened patiently, but also with great interest, to Senator Gigantès' long speech. I noticed that Dr. Lipsey was quoted in about thirty-four out o the thirty-seven or thirty-eight pages you gave us.

I gathered the doctor was not a medical doctor but probably had a Ph.D. in economics. I would have appreciated some additional details on his professional life, because I have the impression that you are very critical of his book, to a certain extent. Basically, your speech is a response to statements which according to you are inaccurate.

I would like to know something about the author's professional background so that I can draw a comparison between two giants in economics, between him and yourself.

Senator Gigantès: I am hardly a giant in economics. Professor Lipsey, and I said as much in my speech—maybe you were not present—is considered to be one of the most eminent economists in this country. However, even very respected economists are capable of saying on one page that significant progress was made and on the next page that we scored zero in the same area. That gives me heartburn.

But perhaps, as a researcher for the Library of Parliament said when he read the book, half was written by Dr. Lipsey and the other half by Mr. York, and they didn't read each other's contribution. That may be the reason why this economist at the Library of Parliament said there were so many contradictions. It's full of holes, what can I do! Even great men make mistakes!

In this case, I wish you would read the book, while following the text of my speech. You will see I made no mistakes in my quotes. I did not criticize the man, his training or his work. I said that his arguments were often contradictory and that this book deserved to get a number of comments.

What did Senator Lowell Murray say yesterday? It was raining quotes from Dr. Lipsey, the same as it was today. Dr. Lipsey is the great Manitou. Dr. Lipsey says so. The big cheese of economics said so. But sometimes people make mistakes.

Senator David: Your answer leads me to believe that the same book can be interpreted in two different ways. There is your interpretation, but that does not mean Senator Murray can't have his. This can happen among economists, as it does among physicians.

Senator Gigantès: I maintain my position. It might take me three hours to explain, however. The only reason I can see for Senator Murray's supporting this book is that he didn't read it. If he had, since he is a very intelligent man, he would never have quoted from it.

If Mr. Crosbie, who is also very intelligent, had read it, if he had ever read the studies by the Economic Council of Canada and had asked one of his assistants to calculate the value of a 2.5 per cent increase in eleven years to figure out what that would mean on an annual basis, per capita, in other words, 2.25 tenths of 1 per cent—but no one asked that question. If someone had, it would have been clear right away that we are talking about one cigaret per day per person. As increases go that is ridiculous.

[*English*]

Hon. Richard J. Doyle: Senator Gigantès, you have taken considerable time this afternoon to debunk various authorities quoted by the Leader of the Government here yesterday. I perhaps missed what you might have said about one of the authorities that the honourable leader drew upon. However, because you have made some very definitive references to water, I would ask if you have given any thought to the statements made by Senator van Roggen, who spent some six months or more studying the Free Trade Agreement and gave us a bold, clear statement on water. Did you find no reassurance in his statement, or is he among the authorities we are to consider as having been debunked?

Senator Gigantès: One of the unfortunate things about being in the Senate is that one either speaks or one listens. Even my former boss and editor, who used to read my material so carefully with a blue pencil, obviously did not grasp what I said. If he reads the record tomorrow, he will see that I said I asked the lawyers on the Conservative side to look at this issue and tell me whether there is a danger because of Article 2201 of the harmonization. I asked a question; that is all.

Senator van Roggen thinks that there is no danger. I have talked to other lawyers who say there is. Senator Sinclair has suggested a way of correcting this. I am not suggesting that the government wants to sell water in bulk. I accept the word of the government that it does not. However, there is a possible loophole that might catch us down the road. I have talked to several lawyers about this. It can be corrected. I am asking the lawyers on this side to check, and not rely only on Senator van Roggen. He is one lawyer; there are others.

● (1640)

Senator Barootes: My learned friend and national compatriot was good enough to quote Thomas d'Aquino, who is the BCNI executive director and a learned counsel and economist. He quoted him from 1985 in a manner that rather hurts the Free Trade Agreement, where d'Aquino said he had a better idea.

Senator Gigantès, have you read his more recent speech given to the same group, the American Bar, on August 18, 1988, three years later, after the Free Trade Agreement had been signed, in which he spent a good hour and some 14 pages—being much more concise than yourself—debunking all the myths that people like yourself have put up, in which he totally and completely supports the Free Trade Agreement of Canada? Do you have any comment?

Senator Gigantès: Oh, yes. If you look at all these myths, you will find that he sets up straw men and then knocks them down. One is the cultural straw man, which I did not mention. I have read his 1988 speech. He is paid to write these things.

Senator Barootes: You did not quote it.

Senator Gigantès: No, I did not quote it. In 1985 he knew what he was talking about; in 1988, terrified because all the pro-free-traders, I think, are the real anti-Americans and terrified that the Americans are monsters, he now has to make a silk purse out of a sow's ear.

Senator Barootes: Oh, come on!

Senator Gigantès: So you take your choice of d'Aquino now; I take my choice of when I thought d'Aquino was right. You do not expect me to quote d'Aquino as an alternative with his views now, because they are not an alternative. I am saying that what he suggested three years ago was a better idea. I was very polite about it. He sets up all kinds of straw men in his 1988 speech, none of which I mentioned. He becomes very theatrical about this issue, but that is his job. He is a lobbyist. We are trying to regulate lobbyists now, and he is one of them. Would I believe Mrs. Erola, do you think? Of course not!

Senator Barootes: He is a nice man in 1985; he is bad in 1988. I get it.

On motion of Senator Doody, for Senator Balfour, debate adjourned.

CANADIAN INTERNATIONAL TRADE TRIBUNAL BILL

REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Leave having been given to revert to Reports of Committees:

Hon. Ian Sinclair: Honourable senators, I have the honour to present the thirtieth report of the Standing Senate Committee on Banking, Trade and Commerce concerning Bill C-110, an Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof.

I 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 that it form part of the permanent records of this house.

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

Hon. Senators: Agreed.

(*For text of report, see Appendix "B", p. 4341.*)

Senator Sinclair: Honourable senators, I have a few words to say about this report. As an appendix to the report, you will find a letter that extends significant protection to members whose terms of office have been terminated by statute. I would ask that you look at that letter carefully.

The committee has received significant assistance from the ministers of the Crown in dealing with this bill. I believe that that is reflected in the commitments and assurances that have been set out in the report. I hope that the bill will receive the support of all honourable senators.

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

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

CANADIAN CENTRE ON SUBSTANCE ABUSE BILL

SECOND READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Kelly seconded by the Honourable Senator Nurgitz, for the second reading of the Bill C-143, An Act to establish the Canadian Centre on Substance Abuse.—(*Honourable Senator Haidasz, P.C.*).

Hon. Stanley Haidasz: Honourable senators, I thank you for your patience and I shall try to expedite the second reading stage of Bill C-143. I will not talk about drug prices or the nature of drugs or their complications. We all know that some drugs are addictive and are abused, even though we have stringent laws against such abuse and illegal purveyance.

Throughout the years the Canadian government has reacted to the abuse of drugs by repeatedly legislating restrictions and imposing criminal sanctions through the use of the Criminal Code. It has established many government agencies, departments and the so-called "non-medical use of drugs directorate." Despite this, the abuse of drugs—especially the mind-altering ones—has increased. In 1970, when cannabis or marijuana—also called hashish—became an increasingly serious problem in our society, the Minister of National Health and Welfare, the Honourable John Munro, whom I served as parliamentary assistant, initiated a commission of inquiry into the non-medical use of drugs, chaired by law professor, Gerald Le Dain, now a member of the Supreme Court of Canada. In response to the Le Dain Commission report, the federal government in 1972 decided against legalizing possession of cannabis, even though there were many people in Canada asking for its legalization.

However, a permissive society and the aggressive money-hungry drug pushers produced more drug victims and problems for our society and government. In 1974, when the taxpayers were paying for the consequences of drug abuse to the amount of more than $1 billion, further efforts had to be made.

A few weeks ago the Canadian Association of Chiefs of Police appeared before one of the parliamentary committees to emphasize that illicit drug trade in Canada is not only very dangerous, but also one of the most profitable criminal activities in this country, with profits estimated in the billions of dollars annually. They also said that this problem of drug abuse not only seriously affects our social and welfare programs, but injures the quality of life. There is a degeneration of society because of the problems associated with drug trafficking and the illicit use of drugs. I now just want to mention, as Senator Kelly did yesterday afternoon, that non-governmental agencies have been very helpful in this problem. He mentioned CODA, the Council on Drug Abuse, which I served as an advisor in the 1970s. However, such non-governmental agencies are always hampered by lack of funds, either from the government or the private sector.

Rather suddenly in September 1986, Prime Minister Brian Mulroney became aware of the illicit drug program, apparently while in Vancouver, where he announced to a stunned nation that drug abuse had become an epidemic which was undermining our economic and social fabric. It is curious that his statement followed almost within 24 hours a similar statement made by the U.S. President, Ronald Reagan. In respons to the Prime Minister's statement, in December 1986 th House of Commons Standing Committee on National Healt and Welfare began hearings into illegal drugs in Canada Early in its hearings, the committee extended the scope of it study to include other forms of substance abuse, both legal an illegal, including the use of alcohol. In May 1987, in advanc of the completion of the in-depth study being conducted by th Health and Welfare Committee, our health minister, Jak Epp, announced a $210-million five-year plan to curb drug abuse. However, this announcement was met with some cynicism and criticism from many interested health officials, and even editorialists, across the country. The announcement o $42 million per year was described as meager help, when one considers that New Brunswick, with less than 3 per cent of Canada's population, estimates its medical and social service costs associated with alcohol and drug abuse at $275 million per year. Furthermore, there was little help in the minister's announcement for increased enforcement by the RCMP, or for our native people, particularly those who live off the reserves.

A few months later in October 1987, the committee chairman, Dr. Bruce Halliday, whom I know very well, tabled a unanimous report entitled *Booze, Pills, and Dope—Reducing Substance Abuse in Canada*. Here I should like to add that Dr. Halliday, Member of Parliament for Oxford in the province of Ontario, was a medical classmate of mine at the University of Toronto along with Dr. Harry Harley, a former Member of Parliament for Oakville who also chaired the Commons Health and Welfare Committee that did the study on tobacco and its effects on the respiratory system.

The report of the committee, chaired by Dr. Halliday, and its 31 recommendations were well received by groups and individuals active in the drug addiction field. In March 1988 the health minister finally tabled the federal government's response to the Health and Welfare Committee's report. It was disappointing that the federal government accepted only two of the 31 recommendations proposed by the committee: the creation of a Canadian centre of substance abuse, funded to the tune of $2 million annually, and the development of a new cost-shared alcohol and drug treatment and rehabilitation program focusing on youth addicts, funded to the tune of only $20 million annually. Whatever the amounts, we must be grateful and satisfied that at least two recommendations were adopted by this short-sighted government, which is generous where the votes are plentiful but stingy where the genuine needs are greatest. However, this centre is a good addition in the war against drug and alcohol abuse.

The purposes of this centre are outlined in the first paragraphs of the bill, so I shall not go into them. I merely want to say that, to meet the challenge of such a national crisis, what has been done to date is not enough. In Canada there are 21,000 heroin addicts alone, according to the law enforcement bodies, including the RCMP. Cocaine trafficking is increasing. Thefts and muggings are on the rise, while drug treatment centres are lacking, and laws are unenforced or ineffective.

Canada needs more well-staffed chronic pain clinics to educe the pressure on physicians caused by the increasing umber of patients demanding relief from chronic pain. The ther problems in this area are double doctoring and other rug diversion activities. I recommend to the federal governnent that, if it is serious in attacking this grave social disease nd this serious criminal activity, it appoint a national director o oversee and coordinate the war against drug and alcohol buse; that it put into action, without delay, all 31 of the ecommendations of the committee; and that it provide more ederal funding and resources for more comprehensive prorams along with better enforcement and more effective legisation. At present the federal government is dissipating the axpayers' money by using five or six cabinet ministers—each ying for the limelight—instead of attacking forcefully and fully this national problem.

Honourable senators, in conclusion I wish to reiterate that we support Bill C-143, but we urge the Minister of National Health and Welfare to implement fully and without delay the other 29 recommendations of the health committee's report on reducing substance abuse in Canada.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

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

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION

MOTION TO AUTHORIZE FOREIGN AFFAIRS COMMITTEE TO STUDY SUBJECT-MATTER OF BILL C-130 DISCHARGED

On the Order:

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

That the Standing Senate Committee on Foreign Affairs be authorized to examine the subject-matter of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America, in advance of the said Bill coming before the Senate or any matter relating thereto.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I think it is evident to those who are still here and those who have been here for the past two days that Bill C-130 is now before the Senate. I have spoken to Senator MacDonald about this order and he agrees with me that it should be discharged.

The Hon. the Acting Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Order discharged.

CANADA-UNITED STATES FREE TRADE AGREEMENT

INQUIRY—ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Gigantès calling the attention of the Senate to the Canada-U.S. Free Trade Agreement.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, in view of the fact that this particular item is now before us in the form of a bill, I would move that it be discharged. Before we go any further, I should indicate that I have not checked with Senator Gigantès. During his address, he drove me to such a peak of exasperation that I took the adjournment—and have regretted it ever since! I shall check with Senator Gigantès.

Order stands.

The Senate adjourned until tomorrow at 10:00 a.m.

APPENDIX "A"

(*See p. 4319*)

APPENDIX TO SENATOR GIGANTÈS' DOCUMENT ENTITLED:
THE FREE TRADE AGREEMENT

APPENDIX

PROPOSITION 4:

This is a fuller version of Proposition 4 as it appeared on page 21 above.

Economic forecasts used by Mr. Mulroney to sell his deal do not predict prosperity. Even so, Mr. Mulroney signed this deal which was not "better", if we hold to his definition of what would have been a better deal. Yet, according to the self same economic forecasts, the risks of not signing were minimal, a loss of some eight cents a day per Canadian in 1998 and a loss of 22,000 jobs over 11 years.

The facts that follow deal with the economic benefits the Mulroney government said would flow from The Canada-U.S. Free Trade Agreement and the "dire" consequences of not signing this Agreement. In making these predictions, members of the Mulroney cabinet were citing two studies by the Economic Council of Canada: Discussion Paper 331, *Impact of Canada-U.S. Free Trade on the Canadian Economy*, August 1987; and eight months later, Discussion Paper 344, *An Assessment of the Canada-U.S. Free Trade Agreement*. The first was based on what the government hoped the Agreement would say, the second, no. 344 was a revision of the first and was based on the actual text of the Mulroney-Reagan agreement.

These two studies have been combined in a 40-page booklet by the Economic Council of Canada entitled *Venturing Forth, An Assessment of the Canada-U.S. Trade Agreement*. In a foreword, Ms. Judith Maxwell, Chairman of the ECC, writes: "This Statement assesses the Canada-U.S. Free Trade Agreement signed by the Prime Minister of Canada and the President of the U.S. on 2 January, 1988. **The Statement reflects the views of the Council members and is based upon an in-depth analysis of the agreement by a team of Council researchers."** (my emphasis)

In its conclusion, *Venturing Forth* states: "Canadians in general have learned about themselves and about the United States in the past two and a half years, through months of negotiations and millions of hours of study ..." This is serious-sounding stuff and the Mulroney government has practically papered the land with *Venturing Forth*.

Venturing Forth and studies 331 and 344 which it explicitly recognizes as its source (p.ix), try to predict where our economy will go with the trade deal ("the most likely outcome") and without ("the base case"). The "base case" does not assume that the Americans will become more protectionist against us if we do not implement the trade agreement. However, the researchers of the ECC have

tudied the possibility that the Americans might become even more protectionist if we did not sign he Agreement; the ECC calls this scenario its "Simulation 5".

Such projections use the past to predict the future but the future seldom fails to surprise us. Nevertheless, computers and armies of equations representing the past relationships among existing aspects of the economy, turn out studies full of such projections which are widely used by the Bank of Canada, the Department of Finance as well as the ECC. They have limitations but they do provide some sort of starting point for thinking about the future.

Presumably, the Mulroney government takes these studies by the ECC seriously since it quotes them at every opportunity as evidence of the good the free trade deal will do Canada. Notably, on Monday July 11, 1988, **the Hon. John Crosbie, P.C., M.P., Minister for International Trade,** said:

"Let us look at what the Economic Council of Canada has to say ... The Council identifies scenario 2 as the most likely outcome which shows real output up by 2.5% and employment higher by 251,000 ... a net increase in jobs of 251,000". (*Minutes of the Proceedings of the Legislative Committee on Bill C-130, An Act to implement the Free Trade Agreement between Canada and The United States*, pp. 2-46)

Here, then, is what the ECC studies used by the Mulroney government, say about our future after the FTA has come into full effect in our two countries, by December 31, 1998. Figures are given, hereunder, in 1981 dollars which are the "constant" dollars the ECC uses to factor out inflation:

(4.1) ***Without the free trade deal, we could lose 22,000 jobs to additional American protectionism in 11 years.***

Ms. Carney predicted that if we did not sign the Free Trade Agreement with the U.S. "we could lose half a million jobs." (*Commons Debates*, March 16, 1987, PP. 4178-4181). The ECC's study 344 has done a calculation of how many fewer jobs the Canadian economy would create between now and December 1998, if we did not sign the Free Trade Agreement and the U.S. took the protectionist measures we fear. The figure is 22,000 jobs.

(4.2) ***Without the free trade deal, additional protectionism by the U.S. could cost each Canadian some eight cents per day 11 years from now.***

Venturing Forth, p. 18, shows that if we did not sign the Free Trade Agreement and the U.S. took protectionist measures against us (Simulation 5), by 1998 our economy will be smaller by two thousandths (that is, by two tenths of one per cent) than it would be with the Free Trade Agreement. Study 344, p. 69, shows that in 1998 the GDP, our Gross Domestic Product (the size of our economy), without the free trade deal, will be some $437.16 billion, in 1981 dollars. Two thousandths or two tenths of one per cent of that is $874.32 million. If we divide this sum by the 28.6 million Canadians that Statistics Canada says will be our population in 1998, we see that in 1998, each Canadian man, woman and child will have some eight cents less per day, if we do not go ahead with the Mulroney trade deal and the Americans turn very protectionist against us.

(4.3) ***The free trade deal might give us one third the jobs the Mulroney government originally predicted.***

The Hon. Pat Carney, as Minister for International Trade, forecast that, thanks to the FTA, "370,000 jobs could be created in the next five years." (*Commons Debates*, March 16, 1987, pp. 4178-4181). She was using the ECC's Study 331, based on Mr. Mulroney's wish list.

But the ECC's Study 344, based on the actual text of the Free Trade Agreement, set the net new jobs to be created by the FTA at 251,000 in 11 years. (Of the 251,000 jobs in 11 years, more than half are for clerks, salespersons and the like and few are in high tech). This figure of 251,000 in 11 years means 114,000 in five years, or less than a third of the 370,000 Ms. Carney originally promised.

The authors of the ECC's two studies on the impact of the free trade deal, say that the job figures changed from their first to their second study because the actual Free Trade Agreement contained far fewer goodies for Canada than had been on the Mulroney wish list. Here is what the ECC says about how tough the Yankee traders were in the FTA negotiations:

"In the earlier study, a hypothetical, comprehensive, bilateral Free Trade Agreement between Canada and the United States was simulated ... It was assumed that all of the existing trade barriers (except subsidies) between the two countries would be removed. But under the agreement signed in January, most of the non-tariff barriers will remain intact ... Our calculations indicate that only about 25 per cent of the existing non-tariff barriers are removed under the Free Trade Agreement. Similarly, the impact of the Agreement on federal government procurement is substantially smaller in scope than the one assumed in Discussion Paper 331 ... Under the Free Trade Agreement, Canada has been excluded from bidding for large U.S. government purchases in aircraft and components, ships, communications equipment and electrical and electronic equipment components." (*Venturing Forth*, pp. 39-40)

(4.4) ***The rate of job creation under the Mulroney trade deal is slower than even during the 1974-1984 years of explosions in oil prices, hyper-inflation, sky-high interest rates, the deep recession that began in 1981 and massive unemployment.***

On page 70 of the ECC's Study 344, we are told that the 251,193 net, new FTA jobs represent 1.8 per cent of the total jobs that will exist at the end of 1998. If the figure 251,193 is 1.8 percent, we can obtain what 100 per cent is by multiplying 251,193 by 100 and dividing it by 1.8 (an economist from the Library of Parliament confirms this). Thus, 100 per cent is 13,955,167 to which one must add 251, 193 (+ 1.8%) to obtain 14,206,360, the number of people who will be employed in Canada in 1998, if the Mulroney-Reagan trade deal is in operation.

We know from Statistics Canada (*Canadian Economic Observer*) that 11,955,000 Canadians were employed In December 1987. We can work out at what rate employment will have grown per year and on average, between January 1, 1988 and December 31, 1998, by using the formula: C = A times (1 + i) to the eleventh power, the standard formula for calculating compound rates of growth.

So, C = 14,206,360 = 11,955,000 times (1 + i) to the eleventh power, where (i) stands for he average yearly growth rate. The result is that, **thanks to the Free Trade Agreement, we shall have n average annual growth rate in jobs of 1.58 per cent over the 11 years ending December 31, 1998.**

By the use of the same formula, and with Statistics Canada figures, we can find the average nnual growth rate in jobs for the 11 years from 1974 to 1984 inclusive, years of huge jumps in oil prices, hyper-inflation, sky-high interest rates and the worst business downturn since the Great Depression, with massive unemployment. **Without a free trade agreement, in the 11 years 1974-1984, the average annual growth rate in jobs was 1.7 per cent,** more than the free trade deal is expected to give us.

Those two 11 year periods, 1974-1984 and 1988-1998 inclusive, are comparable because population in the next 11 years is projected to grow at one per cent per year, the rate at which it grew between 1974 and 1984.

(4.5) *By the time the Mulroney trade deal is fully in place in 1998, personal incomes may have increased by some 10.5 cents per person per day.*

On page 69 of the ECC's Study 344, we are told that by December 1998 Canada's Gross Domestic Product (GDP) will be 2.5 per cent bigger than it would have been without the Mulroney trade deal.

To make these figures clearer for readers who do not have economics as their hobby, the GDP is the sum total of all the goods and services we produce. If we divide the GDP by the population, we get the Gross Domestic Product per capita or per person; this is often used as a measure of how citizens are faring relatively, as between one country and another or one period and another.

It stands to reason that this is a key economic measure. If the GDP per capita is falling (after inflation), chances are that consumer spending is falling; and that, consequently, investment in new plant is falling; government revenues are falling; there is less money to pay for medicare, pensions, child care. The reverse is likely if GDP per capita is rising.

The ECC is not talking of GDP calculations that are "expenditure based" and include government spending. Instead the ECC is talking of GDP at "factor costs" which does not include government spending.

The ECC (*Venturing Forth*, Table 3) predicts that the GDP would be greater by 2.5 per cent at the end of 1998 than it would have been without the Free Trade Agreement.

Table 1.3 of the *Canadian Economic Observer* published by Statistics Canada in July 1988, shows the GDP at factor costs at the end of December 1988 running at a yearly rate of some $387 billion (in 1981 dollars). So by using the formula in the second paragraph of item (4.4) above, we find that if we are talking of GDP at factor costs, then the ECC is predicting that the Canadian economy will grow, thanks to the FTA, from $387 billion this year to $448 billion 11 years from now, or at an average rate of 1.3 per cent per year (all figures in 1981 dollars).

In the 11 years 1974 to 1984, with the two price explosions in oil and the biggest business recession since the Great Depression of the 1930s, Canada's GDP at factor costs grew at an average annual rate of 2.3 percent, after allowing for inflation. This is to say that between 1974 and 1984, the Canadian economy grew at a rate varying between 77 per cent to 500 per cent faster than the rate of growth the Mulroney government's calculations predict for the first 11 years of the Free Trade Agreement.

Those who feel uneasy about comparing the next 11 years with the past 11 years should reject the ECC's forecast exercise because it uses equations based on past relationships in the economy to predict the results of future relationships in the economy. The Mulroney government obviously does not feel uneasy about using these forecasts.

But we could use the ECC's projections to predict what will happen in 1988, if the ECC's rate of growth had applied. The ECC says that after 11 years the economy will be 2.5 per cent greater with the Free Trade Agreement than it would be without the Agreement. That total growth of 2.5 per cent over 11 years turns out to be an added average growth of 0.002247 or 2.25 tenths of one per cent per year (these figures are derived using the formula in the fifth paragraph of item 4.5 above).

If our 1988 GDP grows an extra 2.25 tenths of one per cent, each Canadian man, woman and child will have an extra 10.2 cents per day or less than the price of one cigarette. By the end of 1998, this "extra" income due to the FTA will be 10.5 cents per day per Canadian (all figures in 1981 dollars). The calculations are based on the Department of Finance publication *Quarterly Economic Review* for June 1988. By any comparison, then, the trade deal is no great deal for the average Canadian, according to the government forecasts.

(4.6) ***Mr. Mulroney did not get a "better deal" yet he signed it even though he said he would only sign a "better deal".***

Mr. Mulroney told the *New York Times* on April 3, 1987, "there were several vital conditions the (trade agreement) would have to meet. Most important among these, Mr. Mulroney said, is that Canada must be permanently exempt from the U.S.'s fair-trading laws." This permanent exemption was his most important vital condition and Mr. Mulroney did not get it.

What he may have got, according to projections he uses and publicizes, is a GDP per capita (in 1981 dollars) and a rate of job creation considerably slower than in our worst post-war decade. That is not a better deal, as Mr. Mulroney himself defines a better deal.

He said that "if our negotiations do not result in a better deal for Canada, there will be no deal," (quoted by the Hon. Pat Carney, *Commons Debates*, October 9, 1986, p. 255).

IN SUM, THE EVIDENCE SHOWS THAT:

Economic forecasts used by Mr. Mulroney to sell his deal do not predict prosperity. Even so, Mr. Mulroney signed this deal which was not "better", if we hold to his definition of what would have been a better deal. Yet, according to the self same economic forecasts, the risks of not signing were minimal, a loss of some eight cents a day per Canadian in 1998 and a loss of 22,000 jobs over 11 years.

APPENDIX "B"

(*See p. 4333*)

CANADIAN INTERNATIONAL TRADE TRIBUNAL BILL

REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

THURSDAY, September 8, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

THIRTIETH REPORT

Your Committee, to which was referred the Bill C-110, An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof, has, in obedience to the Order of Reference of Tuesday, July 26, 1988, examined the said Bill and has agreed to report the same without amendment, but with the following comments:

OBJECTS OF THE BILL

Bill C-110 has two primary purposes:

First, it will create a new tribunal, the Canadian International Trade Tribunal (CITT), to replace three existing tribunals: the Canadian Import Tribunal (CIT), the Tariff Board (TB), and the Textile and Clothing Board (TCB). Each of these three tribunals is now empowered to inquire into import-related matters, resulting in needless duplication and complexity in our administrative structure for the implementation of import policy. Their amalgamation into a single agency is an attempt to rationalize that structure. In the words of Finance officials appearing before the Committee: "With the inquiry functions of the three tribunals under one roof, expertise and knowledge regarding trade matters will be more efficiently focused and this will help ensure harmonization in the treatment of import and other international trade issues and provide a central focus for examining the trade-related concerns of Canadians."

Second, the Bill will extend the right of direct access for safeguard-action inquiries to all Canadian industries. Safeguard actions are temporary measures implemented to protect domestic production against imports that are fairly traded; that is, imports that are neither dumped nor subsidized. Article XIX of the GATT permits member countries to take such measures in cases where a product is being imported "in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers". In Canada at present, only the textile and clothing industries are able to petition directly for safeguard inquiries, under section 8 of the *Textiles and Clothing Board Act*. Other industries must petition and convince the government to initiate such an inquiry. Bill C-110 will enable any domestic industry to petition directly for a safeguard investigation by filing with the CITT a properly documented complaint of serious injury from increased imports.

COMPOSITION AND STATUS OF CITT

CITT will consist of a Chairman, two Vice-Chairmen and up to six other permanent, full-time members appointed by the Governor in Council for terms not exceeding five years. Up to five temporary members may also be appointed whenever the workload of the Tribunal requires it. By comparison, the combined membership of CIT, TB and TCB, which CITT will replace, is fifteen.

CITT is to be a court of record with the same powers to summon witnesses, require production of documents and enforce orders as are vested in a superior court of record. This is the same status as that now enjoyed by CIT and TB. The TCB, on the other hand is simply a research and advisory body.

CITT will have power to make by-laws respecting the calling of meetings and the conduct of business, and rules governing its general practice and procedures. The Governor in Council will also have authority to issue regulations respecting the conduct of inquiries by CITT into possible safeguard actions and will generally be responsible for carrying out the purposes of the Act. To ensure easy access, hearings before the CITT will "be conducted as informally and expeditiously as the circumstances and considerations of fairness permit" (clause 35). These provisions are similar to those now governing the procedures of the CIT, TB and TCB.

FUNCTIONS OF THE CITT

The functions of CITT will be essentially those of the bodies it will replace:

> General economic inquiries at the request of the Government (clause 18).

- Tariff-related inquiries at the request of the Minister of Finance (clause 19).

- At the request of the Government, inquiries relating to the importation of goods and services that might retard or cause injury to domestic production (clause 20).

- Inquiries in response to written complaints by domestic producers that imports are causing or threatening "serious injury" to production in Canada (safeguard action inquiries) (clause 23).

- Inquiries to determine whether imports that are being dumped or subsidized are causing or threatening "material injury" to domestic production of like goods. The procedures for the conduct of such inquiries are established under provisions of the *Special Import Measures Act*, which remain unaffected by C-110 (except for the substitution of CITT for CIT).

- Appeals from decisions of the Deputy Minister of National Revenue for Customs and Excise regarding classification of imports and the assessment of import and excise duties. These functions are currently carried out by the Tariff Board.

ISSUES

Transitional Arrangements

Clauses 54-57 of the bill provide that the members of the TB, TCB and CIT (the three tribunals to be replaced by the CITT) plus the Secretary of the CIT shall cease to hold office effective on the day the bill comes into force. The bill makes no provision regarding any means of compensation for these dismissed members.

In a brief to the Committee, the Canadian Bar Association (CBA) argued that the absence of explicit provisions about compensation in the bill means that dismissed members will have to rely on the common law or the principles of the Civil Code of Quebec. The brief expressed doubt, however, whether common law or Civil Code principles would extend to provide dismissed tribunal members with any compensation, citing the case of *Reilly v. The King* (1934) as a source of that doubt. The brief went on to characterize the bill's transitional provisions as unfair and detrimental to the quality and independence of federal tribunals. The dismissal through reorganization of all the members of an independent tribunal is, according to the CBA brief, contrary to well-established Canadian tradition: " Regulatory tradition would suggest that some of the incumbents be given a chance to apply the new legislative policy in good faith, rather than assuming that all of them are incompetent or unwilling to do so." Anyone not re-appointed, the brief stated, should be compensated fairly for the loss of the remainder of his or her term of appointment.

The Minister of State (Finance), The Hon. Thomas Hockin, was asked to address these concerns when he appeared before the Committee. He said that all members of the tribunals being eliminated by the bill will be considered for appointment to the CITT. New members, however, will also be appointed to the CITT " in order to constitute the new kind of direction and depth of this tribunal". All members not re-appointed will be offered compensation on a case-by-case basis in accordance with the government's "normal compensation practices in such cases".

The Minister agreed to provide these assurances in writing. His letter, addressed to the Chairman of the Committee and dated September 7, reiterates the Government's commitment to deal fairly with Governor in Council appointees whose appointments have been terminated by legislation. In particular, with respect to appointees to the CIT, the TB and the TCB, the letter sets out the following assurances by the Government:

1) Each of these appointees will be considered for appointment to the CITT.

2) Those not appointed to the CITT will be offered reasonable compensation following individual negotiations.

3) Any case where negotiations do not result in agreement will be referred for resolution tothe Federal Court, Trial Division.

The full text of the letter is appended to this report.

The Textile and Clothing Industries

The Canadian Textiles Institute (CTI) expressed satisfaction with the performance of TCB, which is mandated to investigate injury complaints filed by textile and clothing firms and make recommendations to the Government for remedial action. They fear that the disappearance of TCB may result in a loss or dilution of the special knowledge and understanding of the textile and clothing sector that the Board has acquired over the years. They fear even more the prospect that the new tribunal will assess "serious injury" to the textile and clothing industries by the same criteria that it will apply to safeguard investigations generally. These are more stringent than the "serious injury" criteria applied by the TCB and more stringent than are required under GATT.

International trade in textiles and clothing is governed by a special set of rule within GATT established under the *Arrangement Regarding*

International Trade in Textiles, more commonly known as the Multifibre Arrangement or MFA. The MFA derogates from regular GATT rules by permitting member countries to negotiate bilateral restraint agreements (import quotas) on textiles and clothing whenever the imports in question are causing "market disruption" in the importing country. The criteria for market disruptionare much easier to meet than those under GATT article XIX for normal safeguard action. In particular, they do not require an injury binding at all.

With the abolition of TCB, CTI argued, textile producers will also lose the direct access they now enjoy to an inquiry process governed by the MFA criteria. When the Government initiates an inquiry into the importation of goods that may cause or threaten injury to the domestic textile or clothing industry, it will be able to specify an injury standard that is consistent with the MFA. The industry, however, will not have the same power. Clause 23 of the bill, which provides for industry-initiated safeguard inquiries, does not differentiate between inquiries into the effect of textile and clothing imports and inquiries involving other industries. In the TCI's view, the new tribunal, the CITT, will be bound to apply the same injury test in all inquiries under clause 23, which is to say it will apply the injury test associated with normal safeguard inquiries.

CTI suggested two possible solutions to their problem: a) an amendment to Bill C-110 providing that, when textile and clothing cases are being handled under the provisions of the MFA, they be judged by the criteria of that arrangement; and b) the establishment of a standing reference from the Governor in Council directing the Canadian International Trade Tribunal to deal with injury complaints from textile and clothing producers in accordance with the provisions of the MFA.

The Canadian Apparel Manufacturers Institute (CAMI), representing the Canadian clothing industry, also expressed support for the use of MFA criteria to deal with textile and clothing imports injurious to domestic production. However, unlike CTI, CAMI is satisfied to leave the bill unamended on the understanding that, as is normal practice today, MFA-related matters will continue to be administered by the Department of External Affairs reporting to a special committee of Cabinet responsible for textile and clothing policy. CITT will be involved in the application of the MFA only when expressly requested to do so under a specific reference from the Minister of Finance.

During his appearance before the Committee, The Hon. Thomas Hockin dealt at length with the implications of the bill for the textile and clothing sector. He rejected vigorously the need expressed by CTI for a formula to allow the textile industry direct access to the CITT for injury inquiries based on MFA criteria. The protection from injurious imports that textile and clothing producers now enjoy is provided mainly through a system of bilateral import restraint agreements between Canada and individual textile and clothing exporting countries. These agreements are negotiated under MFA auspices which require no finding of injury by an independent body.

CITT's role in this bilateral restraint system, the Minister said, will be limited: "The decision to negotiate and the parameters of the negotiations are the responsibility of the Minister of International Trade. The decision to take bilateral action is based primarily on information generated from import monitoring by External Affairs, information on domestic markets and production provided by the Department of Regional Industrial Expansion, the Textile and Clothing Board and the industry. //l// The industry is fully familiar with this fast track for seeking relief and has used it effectively. The function of monitoring and reporting on the state of the Canadian market and Canadian production now carried out by the TCB will be transferred to DRIE along with appropriate resources to carry out the analysis by knowledgeable experts."

In light of the foregoing, the Minister expressed surprise at CTI's proposal to entangle MFA principles in CITT's inquiry procedures, which are designed to deal mainly with non-MFA cases. The Minister also argued that introducing a separate set of rules in CITT's procedures for one industry would be contrary to the basic thrust of the bill, which seeks to amalgamate separate tribunals into one entity so as to create a single process. In addition, an exception for one industry, he said, would set a precedent that other industries might seek to take advantage of. Nevertheless, in response to a request by the Committee, the Minister agreed to meet with the textile industry to determine whether their concern about having to rely on CITT inquiries conducted on non-MFA criteria is a " theoretical abstract concern or whether it is a real concern."

Injury Test in Safeguard Actions

Under provisions of clause 27 of the bill, in a safeguard inquiry the CITT will be required to determine whether the imports that are the subject of the inquiry are being imported in such increased quantities as to be *a principal cause* of serious injury. *A principal cause* is defined as "an important cause and not less important than any other cause".

In their submissions to the Committee, the Canadian Manufacturers' Association (CMA) and CAMI opposed enactment of the principal cause

standard asbeing excessively stringent. In their view, "principal cause" is a much higher standard of injury than the test under Article XIX of the GATT, which is that goods are being imported "in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers". One concern with a stringent injury standard is that it makes it more difficult for Canadian industry to obtain relief from injurious imports. It also robs Canada of a possible bargaining tool in future trade negotiations. As argued by the CMA brief, "a higher injury standard than presently exists in the GATT and current Canadian legislation should be tied to reciprocal concessions by our trading partners".

Finance officials questioned the view that the injury standard in the bill is more stringent than required under Article XIX of GATT. The GATT test, they argued, is a tough one. Precisely how tough the "principal cause" test of the bill is will depend on how the CITT and the courts interpret that test. At any rate, according to the testimony of the officials, the reason for codifying the pricipal injury test is to give some guidance to the new tribunal in its conduct of safeguard inquiries. In light of the extension to all Canadian producers of the right of direct access to safeguard inquiries, such guidance is important both in order to reduce uncertainty and in order to avoid frivolous safeguard petitions launched chiefly for harassment purposes. The definition of "principal cause" in clause 27(2) of the bill parallels the wording of section 201 of the U.S. Trade Act of 1974, the section dealing with safeguard actions by U.S. trade authorities. The term in section 201 corresponding to "principal cause" is " substantial cause," which is defined as "a cause which is important and not less than any other cause."

GPT Injury Inquiries

In 1974, Canada adopted a General Preferential Tariff (GPT) system under which imports of most industrial products from developing countries are assessed a rate of duty at two-thirds of the Most-Favoured-Nation (MFN) rate, the normal rate of import duty. In 1980, the Minister of Finance establishe a standing reference (Reference 158) pursuant to section 4(2) of the *Tariff Board Act* directing the Tariff Board to conduct an inquiry in response to any petition it receives from a Canadian producer complaining that the producer has suffered or may suffer injury as a result of the GPT "where the Board is satisfied that there is a *prima facie* case of injury". Where an inquiry results in a finding of injury, the Board may recommend safeguard action.

As already noted, Bill C-110 will abolish the Tariff Board, transferring its functions to the new tribunal, the CITT. The bill, like the existing *Tariff Board Act*, contains no provision giving producers a right of direct access to GPT injury inquiries. The Minister assured the Committee, however, that the Government is committed to maintaining that right, and will issue a new standing reference to the CITT on goods benefiting from the GPT. The standing reference will be made under the authority of section 19 of the bill and its terms will be similar to those of Reference 158 to the Tariff Board.

The Baucus-Danforth Amendment

This amendment refers to section 409(b) of the U.S. -Canada FTA Implementation Act. As drafted, section 409(b) will allow any U.S. industry to petition the U.S. Trade Representative (USTR) to be "identified" if it believes that as a result of the implementation of the FTA or any other future trade agreement the industry is likely a) to face increased competition from subsidized imports and b) to experience a deterioration of its competitive position. At the request of an identified industry, the USTR will be required to initiate fact-finding investigations under existing provisions of U.S. law. Further, the USTR and the Secretary of Commerce will be required to review the information obtained from these investigations and consult with the identified industry to determine whether any countervailing duty or other trade remedy action is appropriate under the circumstances.

The effect of the Baucus-Danforth amendment is to enhance the ability of U.S. producers to launch government-sponsored inquiries into the trade practices of exporters to the U.S. And while the conditions for triggering a trade remedy action are not affected by the amendment, an increased ability to place on's competition under investigation also increases the scope for harassing one's competition. Understandably, therefore, the amendment has generated concerns among Canadian exporters to the U.S., and has given rise to proposals for similar provisions in Canada's trade legislation in order to "level the playing field". It was suggested to the Committee that one way of accomplishing this would be through an appropriate amendment to the provisions of C-110.

The Minister was asked to address this issue when he appeared before the Committee. He took the view that no amendment was necessary because existing statutory provisions already enabled Canada to take action similar to that in the U.S. To clarify the existing process and to underline the Government's had issued a statement of administrative action on this matter. For the benefit of the Committee the Minister read part of the statement into the record. It very closely parallels the process established by the Baucus-Danforth amendment in the U.S.:

"If a Canadian producer believes it is facing increased competition from subsidized imports and that this competition is likely to cause a deterioration in its competitive position, it can raise its concern with the Minister of Finance. He will, following consultations with the Minister for International Trade, forward all reasonable requests to the Canadian Import tribunal for an inquiry. Any decision by the Minister of Finance on forwarding the request does not prejudice or substitute for any action subsequently taken under the Speacial Import Measures Act, or other trade legislation. The tribunal's reports will be made available to the industry and industry will be able to request annual updates.

"The reports can be used by industry, the Deputy Minister of Revenue Canada and the government in determining the appropriate course of action. For example, industry could use the information in the report in seeking initiation of a countervail investigation. Similarly, the Deputy Minister of Revenue Canada could use the information to determine if it would be appropriate to self-initiate a countervail investigation. The Minister of Finance and the Secretary of State for External Affairs could also consider the report in the context of taking action under section 59(2) of the Customs Tariff. These latter two types of action would only be considered in exceptional circumstances."

CONCLUSION

The bill will amalgamate three separate agencies dealing with import-related matters into one new agency, the CITT. All the witnesses that we heard from expressed themselves in favour of this change which is intended to rationalize the administration of Canadian import policy.

Except for the Canadian Importers Association (CIA), support was also unanimous for the second major provision of the bill, the extension of the right of direct access for safeguard inquiries to all Canadian industries. The CIA expressed concerns that this provision will encourage protectionist tendencies among domestic producers and trade policy makers. Most of our other witnesses not only welcomed this new right of direct access, they also felt that the bill restricted that right too much. In particular, they argued that the injury threshhold for safeguard inquiries establlished by the bill is a much higher standard than is required by Canada's obligations under GATT, making it unnecessarily difficult for Canadian producers to obtain relief from injurious imports.

The Committee supports the right of direct access to safeguard inquiries that the bill provides. While only time will tell how significant a right this will prove to be, for the first time Canadian producers outside the textile and clothing sectors will have an established, transparent and uniform procedure for seeking protection from fairly traded but injurious imports. We recognize at the same time that this right must be appropriately constrained to avoid frivolous petitions which may be damaging to Canadian consumers and risk retaliation from our trading partners. In this context, the constraints to the use of that right provided in the bill appear reasonable to us.

On the whole, it is the Committee's view that the Bill will establish a more efficient administrative structure and a more equitable process for dealing with import-related matters. The concerns identified during our examination of the Bill have been satisfactorily addressed by the undertakings that the Minister gave to the Committee. We therefore report the bill without amendment.

Respectfully submitted,

IAN SINCLAIR
Chairman

APPENDIX

Ottawa
September 7, 1988

Senator Ian D. Sinclair
Chairman, Standing Committee on
Banking, Trade and Commerce
The Senate of Canada
Ottawa KIA OA6

Dear Senator Sinclair:

The Senate Standing Committee on Banking, Trade and Commerce, has been conducting hearings on Bill C-110, An Act to Establish The Canadian International Trade Tribunal.

On Tuesday, August 30, during testimony before the Committee, one of the matters raised was the position of Members of existing Boards whose appointment would be terminated by the enactment of Bill C-110. I was requested to provide undertakings regarding such Members of existing Boards.

Pursuant to such requests, and in accordance with Government policy of fair treatment in such circumstances, the following sets out the Government's assurances and commitments:

(1) All current appointees to the Tariff Board, the Textile and Clothing Board and the Canadian Import Tribunal, will be considered for appointment to the CITT.

(2) Any Members of the existing Boards referred to in (1), not appointed to the new CITT, will receive, on a case-by-case basis, an offer of reasonable compensation decided following negotiations with the individual concerned.

(3) If the negotiations referred to in (2) develop issues not resolved between the former Member of a Board and the Government, the Government will agree in writing that the amount that should be paid to the Member as reasonable compensation be determined by the Federal Court, Trial Division.

Sincerely yours,

Tom Hockin

THE SENATE

Friday, September 9, 1988

The Senate met at 10 a.m., the Speaker *pro tempore* in the Chair.

Prayers.

[*Translation*]

INDIAN ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Arthur Tremblay, Chairman of the Standing Committee on Social Affairs, Science and Technology, presented the following report:

Friday, September 9, 1988

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

TWENTY-FIFTH REPORT

Your Committee, to which was referred Bill C-123, An Act to amend the Indian Act (minors' funds and surviving spouse's preferential share), has, in obedience to the Order of Reference of Wednesday, September 7, 1988, examined the said Bill and now reports the same without amendment, but with the following comment:

Your Committee has noted that, in the French version of clause 3, the words "le ministre" were omitted from line 6, on page 4, which should read "52.2 ou 52.3, libérer, en tout ou en partie, le ministre,".

Having been so informed the Minister has undertaken "to introduce an appropriate amendment to the legislation to correct the French text at the earliest opportunity."

Respectfully submitted,

ARTHUR TREMBLAY
Chairman

Hon. Eymard G. Corbin: Honourable senators, I would like to say a few words about the comment the report contains. Clearly, the comment was included after a conversation that Senator Len Marchand had with the committee chairman, Senator Tremblay.

This is not the first time the French version of a bill is incorrect. Instead of correcting the text in committee, instead of reporting back to us from committee with an amendment to correct the French version, they always come back with a comment, with the minister's verbal agreement that the error or omission or whatever will be corrected whenever there is a general revision of legislation in the form of an omnibus bill. I don't think that is satisfactory.

I am told that the English and French versions are now drafted by separate teams at the Department of Justice, on behalf of client departments. I don't see why the French version is always treated like this in legal texts. If the French is deficient, it seems to me the committee has an obligation to correct it in committee instead of seeking guarantees from the minister.

It seems there is a desire to have this bill passed very quickly. I don't think anyone objects to the bill being passed today. But why does the French version get this kind of treatment? Why does French get second-class treatment in legal texts? I object most strenuously.

I say this because the next time it happens I will move a motion to have the bill returned to committee to be duly corrected.

Senator Tremblay: Of course, I don't intend to start a debate on the point raised by Senator Corbin. I simply want to add that it is really exasperating to get to the last stage of a bill and find there are a number of omissions. This tends to happen more often in the French version. This is a shortcoming in what I would call the federal government's housekeeping. I am glad Senator Corbin brought this up, and I feel it is my duty to point it out as well.

However, I think Senator Corbin will agree that we must consider what is at stake in this bill for the target groups, including native people, for whom the bill represents, as Senator Marchand pointed out the other day, another step in the right direction towards self-government. The mistake being obviously a technical error and not an error that would affect the substance of the bill, I think that, in the circumstances and considering what is at stake, we can proceed as though the bill did not contain this omission, on the basis of both the verbal and the written commitment, because in my files I have a letter from the minister containing the commitment mentioned here in the report. In the circumstances, I believe there is agreement to opt for this not altogether elegant solution.

[*English*]

POINT OF ORDER

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, this might be as good a time as any to raise a point of order that I have wanted to draw to your attention. We have recently—within the last two or three years—developed the habit or tradition of speaking to committee reports on bills that are reported without amendment. I am not laying any complaint against anyone in particular, because I think what has developed here is a very natural procedure. However, rule 78(4) says:

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.

Our rules as they stand do not seem to contemplate discussing a report without amendment on a bill at the time it is presented. However, we have developed, I think, the salutary and useful practice of adding comments, as in this case, and the logical time to discuss these matters, it seems to me, is at the time the report is received, even though, strictly speaking, the procedure should simply be adoption of and reading, with debate taking place at third reading.

As I remember, this particular practice arose with Senator Hayden, when he was chairman of the Banking, Trade and Commerce Committee. In most cases, it was when the committee had studied some tax legislation—although it may have occurred with other legislation—and particularly when it had received some undertaking from the minister, as in this case. Senator Hayden would ask leave to speak to the report, and some debate, as distinct from third reading debate, would ensue on the report itself even though it had been reported without amendment.

As I say, I think what transpired today and what transpired last night with regard to Senator Sinclair's explanation of a committee report on a bill are very natural. I tend to support things that grow up as tradition, because as a group we have found it useful to do so. In that light, it might be worthwhile to have the Standing Rules and Orders Committee review rule 78(4) in order to give regulatory foundation to what has grown into, I think, a worthwhile practice.

The Hon. the Speaker *pro tempore:* Is it agreed, honourable senators, that this matter be referred to the Standing Rules and Orders Committee?

Hon. Senators: Agreed.

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

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

[*Translation*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-THIRD REPORT OF COMMITTEE PRESENTED

Hon. Roméo LeBlanc, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Friday, September 9, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTY-THIRD REPORT

Your Committee recommends that for the period from the day Parliament is dissolved until the day of election, Senators be entitled to one regular trip per week and 2/12 of their normal entitlements for national trips, (i.e. three trips). Senators' spouses and designated family members, but not staff, may make use of the trips indicated above. For the period after election day, the normal travel entitlements will be resumed.

Respectfully submitted,

ROMÉO LEBLANC
Deputy Chairman

The Hon. the Speaker *pro tempore:* When shall this report be taken into consideration, honourable senators?

On motion of Senator LeBlanc (Beauséjour), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[*English*]

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. Orville H. Phillips, with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until Monday next, 12th September, 1988, at three o'clock in the afternoon.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, Senator Doody and I discussed sitting at three o'clock, instead of two o'clock, on Monday because of airline schedules from the west. Although I have not looked at timetables, I have been told by some of my colleagues that, if the sitting commenced at three o'clock instead of two o'clock, it would mean they would not have to leave on Sunday evening. That is why Senator Doody and I asked Senator Phillips if he would move the sitting for three o'clock, instead of two o'clock, on Monday.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

CANADA POST CORPORATION

PURPOSE OF CREATION

Hon. Charles Turner: Honourable senators, my question is for the Leader of the Government in the Senate. On April 1, 1867, the Post Office was the first government department created in this great country of Canada. Can the leader tell me whether this department was created to make money, lose money, break even or provide a service for all Canadians?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I would refer my friend to the speeches made by the Honourable André Ouellet at the time he introduced the bill to create a crown corporation out of Canada Post.

Senator Turner: On September 2 we were notified that postal rates were to be increased by one cent on January 1, 1989. What is the reason for this rise in rates, when in London, Ontario, the pickup boxes have been removed from many places and put in front of corner variety stores? They have been taken away from groups of apartments and now, instead of there being one pickup box in front of a variety store, there are two. Is this the type of service this government considers great for all Canadians?

● (1010)

Senator Murray: Honourable senators, the Trudeau government abolished the Post Office as a department of government and established it as a crown corporation. That being the case, it is for a minister simply to report to Parliament the replies that are given by the President of Canada Post.

Senator Steuart: If Trudeau ever dies, you guys are finished!

Senator Murray: I shall be happy to obtain answers to the honourable senator's questions from the President of Canada Post and convey them to the Senate in due course.

Senator Argue: Just twist his arm!

Senator Turner: Well, honourable minister, this question has been raised many times on open-line shows in London, Ontario. I will notify the people there of the position of this government on the postal service.

Senator Murray: And of its predecessor government, I trust.

TRANSPORT

MORATORIUM ON ABANDONMENT OF RAILWAY LINES—AUTHORITY FOR PROPOSAL—RELATIONSHIP TO NEXT ELECTION

Hon. L. Norbert Thériault: Honourable senators, I have a question for the Leader of the Government in the Senate. When I was a member of the Transport Committee studying Bill C-18, respecting national transportation, I raised a number of concerns. I see now that, after permitting, under the regulations and the law, the abandonment of rail lines at the rate of about 4 per cent per year based on the economy of the particular line and not on the economy of the railway company operating it, the railways have decided to abandon, and have abandoned, a number of lines in the Atlantic provinces, and probably in other areas of the country too. In the Atlantic provinces, the governments of P.E.I., Nova Scotia and New Brunswick have expressed their concern that the Government of Canada was able to buy the consent of the Tory government of Newfoundland.

I read yesterday that the Minister of Transport is proposing a moratorium on the abandonment of railway lines for the next six months. Could the Leader of the Government in the Senate tell me under what authority that is proposed and if it has, perhaps, something to do with an election?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have not had an opportunity to read the remarks which Senator Thériault attributes to my colleague, Mr. Benoît Bouchard, but I shall do so. At the same time, I will ask Mr. Bouchard whether he wishes to expand on the remarks that have been attributed to him.

CANADA-UNITED STATES FREE TRADE AGREEMENT

GOVERNMENT INFORMATION PROGRAM—PROPRIETY—CESSATION ON DISSOLUTION OF PARLIAMENT

Hon. L. Norbert Thériault: Honourable senators, it is unusual that we sit at 10 o'clock in the morning, but I have another question for the Leader of the Government in the Senate. I did not have the pleasure of sitting and listening to all of his speech on Wednesday last on Bill C-130, but I have since read it. He had little to say about the agreement. He had a lot to say about the Liberal Party, about Mr. Turner and about Mr. Trudeau. That is fair game when you know that an election is going to be called in two or three or four or five days. I noticed that he was very strong and heavy on democracy and on fairness and the strength of the people being elected through the democratic system.

Over the past two or three weeks, like many other people, I could not help but read and hear about the tremendous amount of money being spent to urge Canadians to support the Free Trade Agreement—the Mulroney-Reagan agreement. Every time I opened a newspaper or a magazine, or listened to a radio or television report, I heard the same tune. I think that is terrible.

While the government knows that the legislation that puts the agreement into force is still before the Parliament of Canada, and, therefore, that there are no laws in place permitting the enforcement of that agreement, and while it is probable that there will not be such laws in place before an election is called, can the Leader of the Government in the Senate truthfully tell us and the people of Canada that what is being done now by the government, while it may be legal in a technical sense, is proper?

Further, will the leader assure the Senate and the people of Canada that if and when Parliament is dissolved for an election this wasteful spending of taxpayers' dollars will be abandoned until the people of Canada make a decision on this important matter?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there is ample precedence, as the honourable senator should know, for Canadian governments to carry on public information programs, including paid advertising on policies, programs and legislation, even in advance of their having been passed by the Parliament of Canada.

Secondly, I would remind the honourable senator that the bill in question has now passed, by an overwhelming margin, that House where the elected representatives of the people sit.

PARLIAMENT

LEGISLATIVE ROLE OF SENATE

Hon. L. Norbert Thériault: Have the Government of Canada and the Leader of the Government in the Senate now decided that the Parliament of Canada is composed constitutionally of only one house?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators. What I have been trying to explain to my friends opposite over the past few days and, indeed, throughout the life of the present Parliament is that the modern conventions governing the conduct of this appointed body—

Senator Frith: You never miss a good chance!

Senator Murray: —are that we debate and deliberate—

Senator Frith: It is appointed under the same Constitution as the members of the House of Commons are elected under.

Senator Murray: I am sorry my honourable friend is sensitive on this point.

The modern conventions—

Senator Frith: It's embarrassing!

Senator Murray: —governing the conduct of this appointed body are that we debate, we deliberate and we draw the attention of the other place—and I suppose indirectly of the Canadian public, while we are not representative of them—to any imperfections—

Senator Molgat: What?!

Senator Frith: You are wrong about the modern Senate.

Senator Murray: —we believe exist in the bill, and then we accede to the wishes of the elected representatives of the people.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, on a question of privilege, it is becoming embarrassing to have the Leader of the Government in the Senate apparently so embarrassed by his position under the Constitution as a member of the Senate, an appointed member as provided for in the Constitution.

As he has just said, he has been trying for the past few days, indeed for the life of this Parliament, to remind us of how embarrassed he is by the fact that he is a mere senator.

• (1020)

Senator Murray: Honourable senators, on the contrary, I am not at all embarrassed so long as this house—

Senator Frith: —does things the way you want them done!

Senator Murray: —so long as this house respects and honours the conventions that have grown up—

Senator Molgat: Hogwash!

[Senator Murray.]

Senator Murray: —in this Canadian parliamentary democracy—

Senator Frith: They are conventions according to you! Conventions according to Murray!

Senator Sinclair: You're a joker!

Senator Murray: —in this Canadian parliamentary tradition—

Senator Frith: You are wrong on those traditions.

Senator Murray: —in this Canadian parliamentary democracy in the twentieth century. Honourable senators—

Senator Stanbury: Why don't you buy us a big rubber stamp?

Senator Murray: Honourable senators are embarrassing themselves and are bringing this institution into disrepute—

Senator Steuart: We're showing a little life!

Senator Corbin: Do you want to work on Saturday and Sunday too?

Senator Murray: —by conducting themselves as a throwback to the nineteenth century House of Lords, or upper chamber, as representative of the property owners of Canada.

Senator Molgat: Why don't you resign?

Senator Corbin: Resign from cabinet, if you can't take it!

Senator Murray: There is a proper role for this body, even as it exists.

Senator Frith: Some thanks! I don't know, but is he for the Senate?

Senator Murray: That role has evolved in modern times. I ask honourable senators only to respect and to honour that role for an appointed body in Canadian parliamentary democracy in modern times.

Senator Frith: The modern tradition, if you want to take the time of this Parliament, has evolved in such a way that it is now perfectly acceptable for this body to propose amendments, to have those amendments not sent down the back corridors, as they used to be, on the basis of undertakings given by ministers in the other place who would then make the amendments in the House of Commons and never give the Senate any credit for having made any contribution.

Senator Barootes: That's not fair. You want a ribbon for your coat!

Senator Frith: Yes, it does bother me, and I am telling you it was done by our ministers just as much as—in fact, more than—it has been done by the present ministers, who have accepted amendments from the Senate; and the modern tendency and the modern evolution of the role of this chamber has to be looked at in terms of what has been accomplished since 1984 in this chamber.

An Hon. Senator: Hear, hear!

Senator Frith: And far from bringing any disrepute to the Senate, I believe that the people of this country have never been more conscious of the existence of the Senate and more supportive—

Some Hon. Senators: Hear, hear!

Senator Frith: —of many of the things that this Senate has done since 1984. That is the modern tradition. The old tradition is the Murray tradition. It is the old, moldy-fig, late-1800s tradition that Senator Murray keeps asking us to follow so that he will not continue to be embarrassed by a Senate that does something.

Some Hon. Senators: Hear, hear!

Senator Murray: The Deputy Leader of the Opposition told the house the other day that he wanted two or three weeks for second reading debate on the measure that we are talking about, Bill C-130; and that would be understandable. He indicates now that they have amendments. Now we are making progress, because I had understood—

Senator Frith: I did not tell you we have amendments.

Senator Murray: —because I had understood that the Liberal Caucus had unanimously decided—

Senator Stanbury: That is not what he said at all!

Senator Frith: I was not talking about amendments.

Senator Murray: —that they were going to block the legislation for the duration of this Parliament. Now there is an indication from Senator Frith that there are amendments.

Senator Argue: You told us we were not to do that!

Senator Barootes: But where was George?

Senator Murray: We are told they have amendments.

Senator Frith: Who said that?

Senator Murray: My honourable friend has just indicated that.

Senator Frith: I talked about the tradition of amendments since 1984.

Senator Murray: Tell me how you can defend the proposition that you should block for the duration of a Parliament a piece of legislation and what kind of precedent that establishes. What will elections mean, then, if the old regime can hang on in the Senate simply by refusing to pass legislation that comes from the elected representatives of the people?

By the way, honourable senators, matters seem to have changed as of this morning. I do not know whether senators have seen the comments of Mr. Raymond Garneau and Mr. Paul Martin, speaking on behalf of Mr. Turner, in this morning's *Le Devoir*—and we can discuss this later because I want to see who takes the adjournment for the Liberal side—but I take them to constitute a clear signal that Liberal senators can now pass Bill C-130.

THE SENATE

STATUS OF GOVERNMENT LEADER—SENATE REFORM

Hon. L. Norbert Thériault: Honourable senators, when I decided to ask a few questions this morning I did not expect to get a lesson on constitutional matters. Had I been looking for that, I would have gone to one of our universities and asked a constitutional expert to brief me. I want to pursue further questions based on the speech given by the Leader of the Government in the Senate on Bill C-130. In part of that speech he raised the matter of the political appointments of Mr. Trudeau and went on to say that perhaps Mr. Turner was responsible for six or seven more, that the Senate is made up of a body of political hacks, that it has no right to do this or that, and that senators more resemble people of the eighteenth than the nineteenth century.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No; I believe I said the nineteenth century rather than the twentieth.

Senator Thériault: The nineteenth rather than the twentieth, then. In any event, I wanted to ask him, as a great democrat and as one who lives by his own words—or words that have been written for him—what is he doing here? If he wants to run the government, if he wants to be responsible for the problems between the Government of Canada and the governments of the respective provinces—the Atlantic provinces, especially, because they concern me—why does he not resign from the Senate and get himself elected?

Furthermore, before he was appointed here or, perhaps, after that time, this body, in conjunction with the other place and under the leadership of another government,—

Senator Steuart: A good one!

Senator Thériault: —set up a committee to study Senate reform. That committee travelled across the country, received submissions, listened to representations, deliberated and wrote a report, which was completed shortly before the last election. Four years ago that report recommended an elected Senate. I have not heard one Liberal senator object to that proposal.

Senator Murray: Senator Steuart of Prince Albert objects to it.

Senator Steuart: He didn't hear me!

Senator Thériault: That may be so, but if he did, I did not hear him. It fell upon my wrong ear.

What happened after the election? What happened with all of these great democrats sitting alongside me?

Senator Barootes: We support an elected Senate.

Senator Thériault: Were they elected? Were any of my colleagues seated to my right, seated to my left and seated in front of me elected? Were they members of the NDP? Is that what got them here? Were they members of a labour party? Maybe they arrived here through their political affiliations in a more drastic fashion than had been the case during the previous 15 years under the Trudeau government. He, at least, appointed a number of supporters of their party to this house.

• (1030)

Senator Steuart: A grave mistake, but he did it!

Senator Thériault: Two or three years ago the Minister of Justice presented a bill or a motion in the other place that he was going to do away with us. The Prime Minister said, "Those political hacks! Those has-beens!" Do those "has-beens" include only Liberals? I wonder if some of my friends, who have come here since I have been here, were has-beens.

Senator Steuart: Some of them are never-weres!

Senator Thériault: What happened to Crosbie's and Mulroney's courage concerning the Senate? I can tell you what I think happened. At that time they still had a few friends in my province who wanted to come here.

Senator Steuart: Like 700,000!

Senator Thériault: They must have had a few friends from other places in Canada who wanted to come here, because they landed here.

What hypocrisy from a government that had received a report written by both houses recommending that something be done about this Senate. We are here because of the make-up of this country—the Constitution of this country. We should not use that constitutional right to do something that we feel, and that I feel personally, in the long run will destroy our country.

Senator Murray: That is not what Premier McKenna thinks.

Senator Thériault: I thought I had worked all my life to have a country for my children and my grandchildren to live in. If I had wanted them to live in the United States, I would have done what a lot of my family members had to do; I would have moved down there.

Now we have a government that is preparing a long-term program that will make us the fifty-first state of the United States.

Senator Frith: I think we should do away with 10 o'clock sittings!

Senator Thériault: The Leader of the Government in the Senate has the audacity to tell us that we are from the eighteenth century.

I understand John Crosbie because he has been honest. He fought—

Senator Murray: The Speaker is on his feet!

The Hon. the Speaker *pro tempore:* Our colleague should ask his question.

Hon. Eymard G. Corbin: On a point of order—

Senator Thériault: I should like to ask the Leader of the Government in the Senate this question: How could he, in his right mind, make the kind of speech that he made last Wednesday and expect his colleagues in the Senate to have any respect for him?

[Senator Thériault.]

Senator Murray: Honourable senators, it is the kind of performance that we have just witnessed that helps make the Senate a caricature of itself for buffoonery.

There are a couple of points I should make about the Senate and about appointments to the Senate from the province of New Brunswick, as well as elsewhere. The Prime Minister of Canada, at Meech Lake, gave up the so-called patronage weapon involved in the Senate. There is a vacancy in New Brunswick now, if I am not mistaken. It will be up to Premier McKenna, the Liberal premier of that province, to submit a list from which the Prime Minister of Canada will choose a senator.

Senator Thériault: Honourable senators, because the Leader of the Government in the Senate is a member of this government, he does not understand and realize that the Premier of New Brunswick has not yet accepted Meech Lake, and, therefore, still has those kinds of principles that would prevent him from using that paper to appoint someone to the Senate.

Senator Murray: That, of course, will be Mr. McKenna's choice. It is true that, as of now, the Legislature of New Brunswick has not ratified Meech Lake. I am, however, delighted with the unequivocal support that Premier McKenna is giving free trade.

Senator Thériault: Honourable senators, again do you see how you have to listen carefully to what has been said? The Premier of New Brunswick has not given unequivocal support to free trade. He has given conditional support to free trade—if certain conditions are met, and the last time I heard him, those conditions had not been met.

Senator Murray: Honourable senators, I would never accuse the Premier of New Brunswick of equivocating, and I am sorry that my honourable friend does so.

CANADA-UNITED STATES FREE TRADE AGREEMENT

GOVERNMENT INFORMATION PROGRAM—PROPRIETY AND COST

Hon. Azellus Denis: Honourable senators, I wish to ask the Leader of the Government in the Senate how honest and fair the government feels it is to spend over $20 million or $25 million in wasted publicity to point out to the people of Canada the advantages of the agreement. How can the government spend the money of the people of Canada to show them and teach them about the good parts of the agreement, but not spend a penny to tell them that there are some bad parts in that agreement? They have not spent a penny to tell them, "Beware, there are some dangers in it!"

Does the government find it honest and fair to the people of Canada to spend their money by the millions and millions of dollars—we do not know how much; I think it is $30 million. I would ask the government leader to tell us exactly how much it cost for the publicity to point out the advantages of this deal, while not a penny was spent to point out the disadvantages. That is why we want the people to know and decide before we

sign this agreement. That is why we want the people to vote on it. I would ask the leader if he finds it fair and honest to spend the people's money that way.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, as I indicated a few minutes ago in answer to a question from Senator Thériault, there is more than ample precedent for governments—

Senator Stanbury: What does that have to do with it?

Senator Murray: —spending money on public information programs, including paid advertising, in support of their policies. There is more than ample precedent for that. My honourable friend has been in Parliament, in either of the two houses, for more than 40 years, and I have never known him to complain in the past about this matter.

Senator Denis: You do not have to follow bad precedents. Is the leader afraid to tell us exactly how much it costs?

Senator Murray: No, I am not. I can obtain that information, and will do so and convey it to the Senate.

Senator Frith: Yes.

Senator Denis: It is too late.

Hon. L. Norbert Thériault: Honourable senators, there is one question the Leader of the Government has not answered. Will they continue to advertise after the writs are issued?

Senator Murray: On free trade?

Senator Thériault: Yes.

Senator Murray: Honourable senators, I have no idea.

Senator Thériault: Well, I think it is a very important question. Will the minister please inquire and let us know? It is an important issue.

Senator Murray: Honourable senators, it may be an important issue for the honourable senator, but these matters are governed by the Canada Elections Act. My party and the government respect that act and will be in conformity with it.

Senator Hastings: Call an election!

NATIONAL CAPITAL ACT

BILL TO AMEND—THIRD READING

Hon. Finlay MacDonald moved the third reading of Bill C-153, to amend the National Capital Act.

Motion agreed to and bill read third time and passed.

INCOME TAX ACT AND RELATED ACTS

BILL TO AMEND—THIRD READING

Hon. Orville H. Phillips, for Hon. Jean Bazin, moved the third reading of Bill C-139, to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related acts.

Motion agreed to and bill read third time and passed.

• (1040)

CANADIAN INTERNATIONAL TRADE TRIBUNAL BILL

THIRD READING

Hon. Orville H. Phillips moved the third reading of Bill C-110, to establish the Canadian International Trade Tribunal and to amend or repeal other acts in consequence thereof.

Motion agreed to and bill read third time and passed.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C., for the second reading of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America.—(*Honourable Senator Balfour*).

Hon. R. James Balfour: Honourable senators, the Canada-United States Free Trade Agreement is an historic event which represents a fundamental policy decision by the Government of Canada. Debate on the issue has been under way for some time and there are strongly-held views both for and against it. While differences of view are expected and natural in a democratic society, it is most important that our final decision on the agreement as a nation be based on the facts.

The outcome of this national debate is too important for us, for our children and for our grandchildren, simply to decide it on the basis of rhetoric and misinformation. In my remarks today, I will focus on the impact of the Canada-U.S. trade agreement on my province of Saskatchewan, since I believe that this agreement is clearly in the best interests of Saskatchewan citizens and indeed all Canadians.

Canada is a trading nation. More than almost any other industrialized nation, Canada is dependent on trade as an engine of growth and job creation. Trade is a crucial contributor to the Canadian standard of living, and this is even more true for Saskatchewan. Access to foreign markets is critical for Saskatchewan producers. It is also critical for Saskatchewan workers, since one in four jobs in the province depends directly on the vitality of the export sector.

Recent trends in the global trading environment are making the export sector more difficult for Canada and for Saskatchewan. World trade is generally characterized by increasing competition. At the same time as markets have become more competitive, export prices for basic Saskatchewan commodities such as grain, potash, oil and uranium have tended to fall.

Producers have had to try to export more volume at these low prices in order to survive, but market competition has been fierce and global surpluses, often caused by subsidized production by competitors, have driven prices even lower. As countries like the United States and others attempt to shield their own economies from the dislocation caused by the changing trade environment, protectionism has made market access even more difficult.

Because we rely heavily on international trade for our economic prosperity, Canada has consistently pursued a policy of liberalizing trade rules since the end of World War II. A founding member of the GATT, Canada is now engaged in the latest round of GATT negotiations where 95 countries are trying to achieve improvements in progressive global trade liberalization. Despite the benefits of global negotiations under GATT, it is difficult and time-consuming to achieve agreement on rules amongst 95 countries, each with its own unique set of interests. Given the critical importance of the U.S. market to Canadian exporters—75 per cent of total exports in 1986—and an alarming growth in U.S. protectionism, the Government of Canada adopted a complementary second track towards bilateral trade liberalization with the United States. By dealing solely with the United States, it was felt that significant improvements in rules governing bilateral trade could be achieved more quickly.

The decision to pursue a bilateral negotiation with the United States was a significant, positive step for Saskatchewan. The United States is the destination of approximately 40 per cent of all Saskatchewan exports. For certain sectors of the Saskatchewan economy—oil, gas, potash, uranium, livestock/meats and forest products—the United States is the major export market. These are also the sectors in which U.S. protectionism was growing and against which indiscriminate U.S. trade actions were being taken.

During the course of the negotiations, actual or threatened trade actions under existing U.S. trade law, combined with proposed changes in the Omnibus Trade Bill, seriously undermined existing access to the United States market for virtually all major Saskatchewan exports.

The existing or threatened trade actions included: an export tax of 15 per cent on Canadian shipments of softwood lumber to the United States; a 4.4-cents-per-pound countervailing duty against exports of Canadian hogs; a countervailing duty and antidumping duty on steel pipe from IPSCO; a voluntary export restraint agreement limiting Canadian exports of steel to the United States; an antidumping suit against potash; an investigation into export practices of Canada's cattle and beef industries; a U.S. court ruling prohibiting the enrichment by U.S. facilities of imported uranium; a petition to restrict oil imports to the United States based on national security grounds; and the imposition of a $5-per-barrel import fee for crude petroleum.

In addition to trade actions under existing U.S. legislation, the U.S. Congress considered the following actions of consequence to Saskatchewan exports: a threatened extension of the hog countervail duty to processed pork; the imposition of severe financial penalties on U.S. utilities which use more than 37.5 per cent foreign uranium, as well as the introduction of a tax on imports of processed uranium; a proposed amendment to retaliate against Canada's policy of controlling wheat imports as well as a threatened antidumping action against wheat imports from Canada; and a proposed amendment to restrict access to U.S. markets where foreign government practices have increased capacity to produce a good, such as potash, resulting in an excess supply worldwide.

It was clearly in Saskatchewan's interest to have the Government of Canada enter into negotiations with the United States. Having done so, can it be said that the agreement that was negotiated is in Saskatchewan's interest? The answer, I submit, is a definite "yes". This is made abundantly clear from a review of the facts of the agreement.

The agreement calls for all remaining tariffs between the two countries to be removed over ten years. This should not be seen as a radical departure from Canadian trade policy, as Canada has been removing tariffs with the United States over the last 40 years. In the 1960s, 60 per cent of trade between Canada and the United States was tariff-free. In 1985, this increased to 80 per cent of all bilateral trade. The agreement simply says that we must remove the tariffs on the remaining 20 per cent of trade over ten years.

Saskatchewan, and indeed all Canadian consumers, will benefit through lower consumer prices due to the elimination of tariffs. Several studies have estimated this benefit and the consensus view is that each Canadian will save between $200 and $250 per year every year after all tariffs have been removed. This saving is even after the government has offset tariff revenue from other sources. Put another way, the Economic Council of Canada estimates that the consumer price index will be 5.5 per cent lower as a result of free trade. For Saskatchewan families, this will result in savings on food expenditures of between $85 and $130 annually. In addition, the same families can expect to pay, on average, $8,000 less to establish and furnish a new home.

Tariff removal will also affect Saskatchewan businesses. First as consumers of imports for their production process, firms will benefit from lower-priced imports and domestically produced goods. As producers, Saskatchewan businesses will become more competitive in the U.S. market. Faced with increased competition, Saskatchewan firms will improve prices, quality and variety of their products.

• (1050)

Perhaps the most significant positive result of tariff removal will be on the impact of the prospects for economic diversification. As tariffs are eliminated, firms which process or manufacture goods with a high value-added content will be better able to sell products in the United States. The reason for this is that goods with a higher value-added content are currently subject to higher tariff rates. This has made it extremely difficult for firms involved in producing these goods to penetrate and compete in the United States. In fact, the high tariff on processed goods, combined with low or even zero tariffs on unprocessed material, has acted as an incentive for Canada

simply to export raw material with all the labour-intensive processing taking place elsewhere.

In Saskatchewan, many sectors producing high value-added goods will benefit from tariff removal. In the forestry industry there is no duty on pulp exported to the United States, but for paper products, which involve further processing, there are tariffs of up to 6 per cent. In the livestock industry, no tariffs exist on live animals shipped to the U.S., but on processed meats the duty is as high as 10 per cent. In the oilseed industry, raw canola shipped to the United States goes at a lower tariff than canola oil. The removal of all tariffs, including the high tariffs on high value-added goods exported to the United States, will reduce the incentive to export raw material. The playing field will now be levelled and decisions on the location of new processing or value-added facilities will now be made strictly according to labour productivity and location. Seen in this light, the agreement and its tariff-free environment is a major cornerstone to the diversification of the economies of Saskatchewan and western Canada.

While it is true that tariff removal will result in adjustments in sectors such as textiles and footwear, wine and light manufacturing, it is equally true that these adjustments will be phased in over the full 10-year period. A typical tariff of 15 per cent means that these industries will have to become more efficient by 1.5 per cent per year for the next 10 years. This is hardly unbearable when compared to the kinds of adjustments the Saskatchewan agricultural, energy and resouce sectors had to make during the high-interest-rate period of the early 1980s and, indeed, have to make all the time.

In addition to the elimination of tariffs, the agreement commits both countries to not impose additional barriers to trade. Commitments in this area relate to both import controls and export subsidies and represent significant benefits to Saskatchewan. The agreement commits the two governments to a reduction, but not an elimination, of barriers to investment. Canada will retain its right to review U.S. investments. However, the threshold will be increased from $25 million in 1989 to $250 million in 1992 and thereafter.

Current special federal and provincial rules governing foreign investment in certain sectors will remain. All acquisitions of healthy Canadian-owned energy companies worth over $5 million will continue to be reviewed by Investment Canada. All current provisions regarding foreign investment in the cultural sector, telecommunications sector and publications sector remain. Furthermore, Saskatchewan's policy of placing restrictions on foreign ownership of land will remain in place.

Equally important to Canada is that Canadian investors will be exempt from any future U.S. restrictions on foreign investment.

One of the most publicized aspects of the negotiation of the agreement was the question of bilateral trade rules and dispute settlement. The reason for this, of course, is that the softwood lumber dispute was being played out at the time of the negotiation. While it has fallen from view, it is useful to remember that the dispute-settlement mechanism contained in the agreement represents a considerable improvement in the manner in which disputes between Canada and the United States will be addressed. First, an impartial bi-national panel will review all antidumping and countervail cases to ensure that U.S. and Canadian law was applied correctly. This panel will have the final say and its decisions will be required within a set period of time—less than one-half as long as the current U.S. process.

The agreement also provides for the joint design and implementation of an improved and harmonized set of rules for antidumping and countervail actions. Additionally, the two governments have agreed that changes in antidumping and countervailing duty legislation only apply to each other following consultation and if specifically provided for in the legislation. Either government may ask a bilateral panel to review such changes in light of the purpose of the agreement and GATT obligations.

In summary, the dispute-settlement mechanism in the agreement has distinct advantages over the current situation. It provides a short, predictable time frame that guarantees a faster result than under U.S. trade law. This will permit a more stable and predictable environment in which to make business decisions. A fair and jointly managed bi-national panel review of a dispute means that Canada's interests will now be heard in the determination process. Currently, the U.S. courts alone determine the validity of an action.

Finally, U.S. private sector harassment of Canadian industry through U.S. trade remedy law is less likely because of the presence of the impartial bi-national panel. In this regard many trade experts suggest that, had a bi-national panel review been in place, the recent softwood lumber case would not have been launched. They also suggest that it would have helped the Saskatchewan potash industry in its recent dispute with U.S. producers. It is important to remember that this process is an interim arrangement pending the development of improved and mutually acceptable trade laws. Fairer and more predictable trade rules will create an atmosphere of greater certainty in which to conduct business.

In addition to the benefits I have just outlined that apply generally to all sectors, the agreement also provides a number of benefits to specific sectors of the Saskatchewan economy. The grains and oilseeds sector is affected in a number of ways by the agreement. Canada and the United States have agreed to prohibit export subsidies in bilateral trade. The United States has agreed to eliminate any future import controls. Canada has agreed to eliminate our import controls only when government support levels in the two countries become equal. Canada can require end-user certificates to ensure that imported grain goes directly to processing and does not contaminate Canada's high quality export grains; and both parties agree not to sell agricultural products into the other party's market at less than acquisition cost. As with other goods, all tariffs will be eliminated.

With U.S. tariffs on grains and oilseeds being higher than Canadian tariffs, tariff elimination will generally improve the competitiveness of Canadian grains and oilseeds in the U.S.

market. The possible future elimination of Canadian import licences on wheat, oats and barley is not expected to increase seriously levels of imports of U.S. grains. It is true that the elimination of import controls will make it impossible to maintain the two-price wheat system; however the federal government has already announced a compensation mechanism for producers. The agreement eliminates the Western Grain Transportation Act rate on grain shipments to the United States through western ports. This will not directly affect sales, as most shipments of grains to the U.S. do not normally go through Vancouver. There will be some negative effects on all feeds and canola meal. This loss, however, has to be weighed against the benefits of unrestricted access to U.S. markets and the elimination of tariffs. Contrary to what critics have said, the agreement will not require changes in the Canadian Wheat Board marketing system; nor will it require disclosure of board prices or other commercial information that could benefit competitors.

The livestock sector in Saskatchewan is also a beneficiary under the agreement. Tariffs and U.S. Customs user fees are being eliminated. Each country will exempt the other from the application of meat import laws for beef, veal and sheep. Harmonized technical and health standards and border inspection procedures will be developed to reduce technical differences that interfere with trade. The livestock producers and meat processors of western Canada are among the most vocal supporters of the agreement. Tariff elimination and harmonization of technical standards are expected to provide increased and more secure access to the U.S. market. The Saskatchewan government has identified an increase in export potential for livestock and meat of $25 million by 1995. Mutual exemption for beef from meat import laws will also secure market access and prevent disruption of trade flows. For pork, tariff removal in January 1989 will also result in improved access to the U.S. market.

• (1100)

With respect to energy trade in general, both countries have agreed, with strictly limited exceptions, to prohibit restrictions on imports or exports. This includes quantitative restrictions, taxes and minimum import or export price requirements. Specifically for the uranium sector, the agreement requires that Canada remove the requirements of further processing of uranium before export. The United States has agreed to exempt Canada from any restrictions on foreign uranium under the Atomic Energy Act. National treatment for Saskatchewan uranium in the U.S. market is expected to increase Saskatchewan exports in the medium and long term.

In addition, the new dispute-settlement mechanism and the commitment to produce new trade laws in five to seven years will likely secure market access and minimize the unpredictable use of U.S. trade law. The Saskatchewan government has estimated that the exemption from current U.S. restrictions will increase Saskatchewan's productive capacity by almost 60 per cent by 1995.

As in other sectors, for the oil and gas sector the implementation of the agreement will result in the elimination of tariffs and U.S. Customs user fees. Import restrictions will also be prohibited. The agreement also calls for consultations on any energy regulatory actions that could directly result in discrimination that would be inconsistent with the agreement. Both countries will be allowed to maintain incentives for exploration and development.

To the oil and gas industry the agreement provides security of market access. This will improve exports, improve investor confidence and promote job creation. Without a stable market in the U.S. we will not be able to generate the cash flow the western energy industry needs to develop our abundant conventional and, perhaps more importantly, our non-conventional reserves. The impact of removing existing trade barriers has been estimated at $4 million in additional export to the United States per year by the Saskatchewan government, and the threat of the imposition of a U.S. oil import fee is removed.

Finally, contrary to what critics have said, the agreement does not undermine, in any way, provincial constitutional rights to develop, conserve and manage their resources and, specifically, to control the rate of primary production.

I have touched briefly on a number of sectors that are important to Saskatchewan. Let me summarize the facts.

The uranium industry and its workers will benefit significantly from the agreement. This is particularly important for northern Saskatchewan.

The livestock and meat processing industry in and around communities such as North Battleford, Moose Jaw and Saskatoon, will benefit significantly from the agreement.

The oil and gas sector will benefit significantly from the agreement. This is important for Swift Current, Estevan, Kindersley and Lloydminster.

The agreement is good for the grains industry.

Other sectors such as the potash industry around Saskatoon, Moose Jaw, Esterhazy, Rocanville and Lanigan; the forestry industry in the Prince Albert-Meadow Lake district; and the high technology and manufacturing industries throughout Saskatchewan will benefit from the agreement as well.

The Department of Finance estimates additional GDP growth of 2.5 per cent by 1993. The Economic Council of Canada estimates additional growth of 2.5 per cent by 1998. This increase in national income, due to consumer benefits and productivity gains, amounts to an additional $12 billion of economic activity. This is the equivalent of $1,800 for every Canadian household, year after year.

In terms of the overall impact of the agreement on Saskatchewan, the Economic Council of Canada estimates that in 1998 Saskatchewan GDP will be higher by 2.7 per cent as a direct result of the Canada-U.S. Free Trade Agreement. This amounts to an additional $450 million in annual economic activity for the province.

In terms of employment, the gains are similarly impressive. Various studies conclude that Canada can expect net employment gains of between 120,000 and 250,000 under the agree-

ment. For Saskatchewan, this translates into net increases in employment of approximately 8,500 people.

I think, by any measure, these are significant benefits. As the Prime Minister has said, "The Free Trade Agreement with the United States is neither a miracle nor a mirage. It will not make us all wealthy by Christmas nor solve regional disparities by the spring. But it can become the cornerstone for sustained economic growth and the creation of new and better jobs for Canada's youth"—and, I add, for the youth of Saskatchewan.

These, honourable senators, are some of the implications, as I see them, of this agreement as it will affect Saskatchewan.

In conclusion, I should like to quote from a recent speech given by Dr. Richard Lipsey, who is becoming somewhat notorious in this place, on the subject of the great free trade debate and the Canadian identity. Dr. Lipsey said:

> So when you come to make up your minds on the great free trade debate, listen to all of the arguments and try to assess the evidence. Some of you will then decide you are for and some of you will decide you are against the proposal. That is your privilege as citizens of a democracy. But base your decision on how you appraise the real economic and political issues that are at stake, not on the mistaken belief that the Canadian identity, of which we are justifiably proud, is so skin-deep that it will not survive eating one more McDonald's hamburger, watching one more installment of "Dallas", or doing 5 per cent more trade with the Americans.
>
> Do your country, and your national identity, the honour it deserves by understanding that it is more than skin-deep; that not only is it admirable, it is also deeply rooted, and that whatever sensible or misguided policies we follow in the future, our identity as Canadians will be around for quite some time.

Honourable senators, I urge speedy passage of this legislation so that Saskatchewan business, Saskatchewan workers and, above all, Saskatchewan families can enjoy the benefits of the Canada-U.S. Free Trade Agreement.

Hon. Senators: Hear, hear!

Hon. Royce Frith (Deputy Leader of the Opposition): Good speech: too bad it was given in a bad cause!

Honourable senators, on behalf of Senator Hastings, I move the adjournment of the debate.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I rise simply for the sake of saying that it is much to be regretted that the Liberal majority in this chamber could not have put up a single speaker today in this debate, and to ask that, when their next speaker takes the floor, he shed some light on the present position of the Liberal Party on this matter.

Senator Corbin: Speech!

Senator Murray: A motion has been made to adjourn the debate and I am asking that the next speaker for the Liberal Party clarify the position of his party on this matter in view of the very important article on the front page of *Le Devoir* this morning in which, clearly, Mr. Turner is changing his position. I will leave it to honourable senators to read it, because it is a long article. In part, it says:

[*Translation*]

> The Leader of the Liberal Party has discreetly adjusted his speech on free trade, to the point that he will no longer refer to "tearing up the Mulroney-Reagan agreement", and that he will promise to go to Washington "right after the election", to offer the new leader in the White House more comprehensive talks on international trade.

[*English*]

The article is based on interviews, obviously, with Mr. Paul Martin, Jr., an important Liberal candidate, we are told, in Quebec, and Mr. Raymond Garneau, who, as we all know, is the Quebec lieutenant of Mr. Turner in the House of Commons. It is indicated that a news conference will be held by Mr. Turner to confirm this change in his position, after which he will go to Montreal to make a formal speech outlining this change in position. In summary, they say:

[*Translation*]

> John Turner, who surprised his own militants with his violent reaction—

[*English*]

By this they mean the threat to tear up the agreement. The article goes on to state:

[*Translation*]

> —is now getting closer to the position taken by Paul Martin; he is going after the same thing as Brian Mulroney, but the fast track approach, which gave Canadian negotiators only a few months, obliged the Mulroney Government to dump all its cards. Turner, if he is elected, will make a proposal to the U.S. Administration to negotiate without haste, but perhaps faster, in the final instance, than the Conservatives since the present agreement provides for a seven-year period to define critical concepts such as subsidies, dumping and fair trade.

[*English*]

It is an extremely important article. As I read it, the position—

• (1110)

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order.

Senator Frith: Point of order!

Senator Murray: As I read it,—

Senator Corbin: I rise on a point of order. The honourable Leader of the Government has already given his speech on free trade—

Senator Murray: It is now completely open to honourable senators opposite to pass this bill.

Senator Corbin: The honourable Leader of the Government will have an opportunity to close the debate. He is now making a second speech on free trade. He is not entitled to do that.

Some Hon. Senators: Oh, oh!

The Hon. the Acting Speaker: Order, please!

Senator Murray: I am simply asking that the next speaker on behalf of the Liberal Party clarify the position of the party now in view of the apparently new position of Mr. Turner, because it has very considerable relevance for us and particularly for my friends opposite. This article would seem to indicate to me that the way is now open for honourable senators to pass this bill.

Senator Denis: You don't talk about the change of Mulroney!

Senator Frith: Honourable senators, at the moment we have eight speakers on our list.

Senator Murray: Eight?

Senator Frith: Eight.

Senator Murray: Excellent!

Senator Frith: The next speaker will be Senator Hastings.

Senator Barootes: Today?

Senator Frith: Even when we have a short day like this, can't we pay attention? I just moved the adjournment of the debate in Senator Hastings' name. That does not mean today. Moving the adjournment of the debate, Senator Barootes—if I can speak more clearly than ever—means adjournment until the next sitting. It does not mean until today.

Honourable senators, I make no undertaking on behalf of any of the speakers on this side as to what they will say or what they will explain. I can undertake that Mr. Michel Vastel is not on our list. The article—and I have also read it—does not lead me to the conclusions, or even to the questions or possibilities, to which it has led the Leader of the Government.

Senator Murray: So it is still Mr. Turner's policy to tear it up?

Senator Frith: Since the debate that we are dealing with, which was the basis for the Leader of the Government's question, is a debate in the Canadian Senate, with both sides taking part, the position of the Liberal majority in the Senate on this order, and on this bill, will appear in the course of the interventions made by these and any additional speakers. I am pleased to think that at least Mr. Vastel has so stimulated the interest of the Leader of the Government in this matter that perhaps he will be courteous enough to sit and wait and listen to the interventions of these speakers.

Senator Murray: Honourable senators, one may therefore assume that the definitive position of the Liberal majority in the Senate on this bill has not yet been articulated in this place.

Senator Steuart: You can assume anything you want. When is the next election?

Senator Frith: One can assume whatever one wants. That is not what I assume and that is not what we assume, but it is certainly within your privilege to—

[Senator Corbin.]

Senator Murray: It's coming!

Senator Frith: What is?

Senator Murray: Your position. It is evolving. We are going to hear about it in the debate.

Senator Frith: Honourable senator, I say to you and to all the other honourable senators: Stay tuned!

Senator Murray: We will; we will.

Senator Frith: Please do yourself a favour and stay here for the debate.

On motion of Senator Frith, for Senator Hastings, debate adjourned.

CONSTITUTION ACT, 1867

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Gildas L. Molgat moved the second reading of Bill S-20, to amend the Constitution Act, 1867 (Speaker of the Senate).

He said: Honourable senators, I should like at the outset to make it very clear that my proposal has nothing to do with the present incumbent in the Chair or the regular Speaker or, for that matter, any previous Speakers. It is not a reflection on the quality of Speakers that we have had in the Senate. It is an attempt to proceed with Senate reform. It is an important element of Senate reform and one that can be done by Parliament itself, by both chambers, without reference to the provinces. It is an internal matter that does not require constitutional change. It is simply a change in our laws.

At present, the selection of Speaker is controlled by section 34 of the Constitution Act, 1867, which reads as follows:

> The Governor General may from time to time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.

That is it. That is the procedure that has been followed since Confederation. I think we have now come to the point in the process of Senate reform where we should be looking at this kind of change.

This morning, a comment was made regarding the report of the special joint committee. In that report we, in fact, recommended those things. We realized that some changes were outside the power of Parliament and would require constitutional change. We felt that, while the government should proceed with them, we could not do this all by ourselves.

We did, on the other hand, recommend a number of changes that could be made now. In fact, that is exactly the way the chapter was headed: "Reforms That Should Be Made Now." One of them in the internal organization of the Senate was that we should have the right to elect our Speaker in this chamber. I believe that that would have some substantial advantage with respect to the work of the chamber itself. Having sat in the Chair occasionally myself, as the present Acting Speaker is doing, I know how difficult it is, because, by our own choice, the Speaker has no power in this chamber. So

long as the Speaker is appointed by someone other than ourselves, I do not visualize that aspect changing. Senators and the Senate as a whole will not accept that an outside-appointed individual should have powers over this body; that is why we have, over the years, insisted on controlling ourselves, on controlling the Senate. However, it does mean that it is extremely difficult at times.

We saw this morning a few instances where we were clearly out of order. If we are happy to have it that way we can, of course, continue in that fashion, but I can visualize, under other circumstances, with different people here, that it could become an impossibility and that this house simply could not function. In my opinion it would be helpful if the Speaker were our choice, for we could then determine what powers we wanted to give that Speaker.

• (1120)

So far as the management of the Senate is concerned—and now I am speaking of the overall Senate, not the Senate chamber, but the business management of the Senate—I think it would also be of advantage to have an elected Speaker.

The Speaker of the House of Commons is actually the executive head of that body. The Speaker consults, quite obviously, but there is clearly a head. The Senate operates with a committee as the executive head. My experience is that running something by committee is an extremely difficult and frustrating endeavour. I think we would be better off with a Speaker whom we would empower to head the business end of the Senate so that there was a clear cut channel of authority in the system.

That is the basis of my proposal. It seems to me that, in view of the changes that have been made in the House of Commons, in that they now proceed to election of their Speaker by secret ballot—and I think that is working out very well for them—they would look upon this proposal as worthwhile. If it is passed by this chamber, it should be accepted readily by the House of Commons as a step forward in the reform of the Senate.

Therefore, I urge my honourable colleagues to support the bill.

Hon. Finlay MacDonald: Honourable senators, I should like to ask Senator Molgat a question, but before doing so I have a brief preamble.

I want to tell him at the outset that I favour the proposition of election of the Speaker. He indicated that there were some things we could do ourselves while waiting for the famous first Constitutional Conference to deal with Senate reform once the Meech Lake Accord is approved.

Do I understand that implicit in his bill is his undertaking, either as the chairman of the Standing Rules and Orders Committee or in his personal capacity as one who has great influence and respect around here, that he intends to put forward or support the recommendation of the very committee to which he refers, which indicates that, after the election of a Speaker here, "his role as presiding officer be clearly defined in such a way that his duties and responsibilities are analogous to those of the Speaker of the House of Commons"?

I think he has said that. Therefore, may I take it that he is recommending the repeal of the invidious rule 15, which, of course, indicates that a ruling by the Speaker is subject to appeal by the Senate?

Would that necessarily follow as the next step?

Senator Molgat: I certainly think that if we proceed with this we will have to change a number of our rules, because, at the moment, the Speaker has no power. So we would have to establish that.

As far as I am concerned, once we have an elected Speaker, once we have decided who will take the Chair, I certainly would favour giving the Speaker the power to make rulings and not have appeals.

I do not think appeals are necessary once we have an elected Speaker, because, if we do not like what the Speaker does, eventually we can replace the Speaker. I would be quite prepared to see that, once we had an elected Speaker, we would not have the right to appeal.

Having sat in a provincial legislature for a long time as a member of the opposition, I know that the rules are the protection of the minority in a legislature and that appeals against Speakers' rulings can be harmful to minorities in legislatures. So I would certainly favour that position once we have an elected Speaker.

Senator MacDonald: I am wondering whether at this time Senator Molgat's suggestion is a bit quixotic. We all know that the Prime Minister has committed himself, once the Meech Lake Accord is approved, to submitting a proposal calling for an elected Senate. That has been confirmed by the Leader of the Government in the Senate in a speech he gave in Edmonton recently. Negotiations are taking place now amongst provinces. Indeed, Alberta is doing it on its own.

Why now? And what other matters do you think we can implement now in anticipation of that particular conference? Are there any other suggestions besides that of an elected Speaker that Senator Molgat has? I ask that, because it seems this is putting a bandaid on a sick element.

Senator Molgat: I had this in mind much earlier than this, when I was hoping that we would move on the matter of an elected Senate. Honourable senators will recall that shortly after this report was published the Prime Minister of the day wrote to the two joint chairmen saying that the government had accepted the recommendation as the basis for negotiations with the provinces, and that negotiations were going to proceed. However, the election came up and nothing further happened.

I make this proposal now because of the recent difficulty we had with the House of Commons on the question of a money bill. Honourable senators will recall that we decided to split a bill and send it back to the House of Commons. Comments were made at that time in the House of Commons, comments which I thought were out of order. I do not think we should

comment on their operations, and I do not expect that they should comment on ours.

An Hon. Senator: Hear, hear!

Senator Molgat: Because of that difficulty, however—and it is a continuing difficulty, this question of money bills, and what it is that is within our power and what it is that is not—I decided we should move now to see if we could clear up some of these problems. It is within our power to do that. I see no reason why the House of Commons should not accept this. After all, that is the procedure they have, and this would be a beginning to cleaning up some of our problems.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, what my friend is saying would require, of course, an amendment to the Constitution. I think we all recognize that "ce n'est pas pour demain"; as we say, it would take some considerable time. The federal government and the provincial governments are now embarked on a process of ratification of the Meech Lake amendments, after which annual First Ministers' Conferences will ensue, with Senate reform as one of the top items on the agenda.

What Senator Molgat is attempting to correct is a problem that exists in the appointed Senate as presently constituted. The problem is that it appears, if one can accept the word of Senator McElman, Senator Molgat and others, that the Speaker has no real power in the sense of exercising the powers that a presiding officer normally exercises. If that is the case, we should consider how to introduce more order into our proceedings than now exists.

Senator McElman, if he were here, would tell us that we do not vest that authority in any presiding officer, but that points of order, when they are raised, are simply raised as between gentlemen and ladies of the Senate to be talked out, and that it is only when the presiding officer is explicitly asked for a ruling that the presiding officer may give a ruling.

That is a formula for chaos, and chaos is what we have too frequently in this chamber.

● (1130)

The oral Question Period that precedes Orders of the Day in this place is, by any parliamentary standard, an abomination. We saw an example of it this morning in the lengthy speeches made by honourable senators. It does not serve the purpose that an oral Question Period serves in all other parliamentary assemblies that I am familiar with, the purpose of which is to ask short, succinct questions in order to obtain information from the ministry. Instead, we have speeches that should be given in the course of debate being given in an interminable Question Period.

I do not find this personally offensive. I have to be here anyway, and it does not matter what is said. It is within my right to answer or not answer as I see fit; but I do not think the exercise accomplishes much. To correct the situation, we should consider other formulae. The route of obtaining a constitutional amendment is a prolonged one, and not one that is apt to bear fruit in the very near future.

[Senator Molgat.]

I wonder whether the honourable senator, who has had considerable experience in these matters and is now chairman of our Rules Committee, has considered other possibilities. For example, when the Committee of the Whole in the Senate sits, it conducts its business in considerably better order than we do in the chamber during the oral Question Period. Perhaps that is because we choose a chairman for the Committee of the Whole on those occasions, and that chairman acts as a presiding officer is expected to act.

I wonder whether he has considered the possibility, for example, of having a presiding officer for the oral Question Period, or going into Committee of the Whole for that purpose or using some other formula. I am sure there are other methods that would enable us to have an oral Question Period that would be in better parliamentary tradition than the abomination we have now.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, the Leader of the Government in the Senate has outlined some procedural problems that we have here. I am not a junior senator, but I am not a senior senator. I have been here for approximately 10 or 11 years.

Senator Turner: Middle class!

Senator Frith: Middle class; thank you. I would certainly not characterize any part of the proceedings in the Senate as an abomination, although I agree with Senator Murray that there are problems.

We have to remember that the tradition up to now has been that, when we have problems, we settle them ourselves. We do not have someone settle them for us. I think many of the problems we have can be solved, as they have been in the past, by the Senate itself deciding that it has to do better, rather than handing the authority over to someone else to tell us what it can and cannot do. I think the absence of a strict procedural regime here, or a more loose one, when compared with that of the House of Commons is one of the advantages of the Senate.

There are principles involved here that have been raised by Senator Molgat and Senator Murray and, while I sympathize with many of the objectives of this bill, I think we have to reflect on the important traditions that we might be changing as a result of adopting it. Honourable senators, I move adjournment of the debate.

On motion of Senator Frith, debate adjourned.

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Ottenheimer, seconded by the Honourable Senator Bazin, for the second reading of the Bill C-148, An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof.—(*Honourable Senator Bosa*).

Hon. Peter Bosa: Honourable senators, I am pleased to take part in the debate on Bill C-148, to establish the Canadian Centre for Management Development. A number of questions came to mind when I read this bill, and I am sure that Senator Ottenheimer, the sponsor of this bill, in closing the debate on second reading will provide us with the answers to them. Here are some of the questions I should like to put to him.

Given the mandate of the proposed Canadian Centre for Management Development, one might wonder, would the government, rather than set up another "institution", not better avail itself of those services already at hand?

Canadian universities have well-established programs in "public administration" and "public policy" that already perform most, if not all, of the functions proposed for the new centre. Is it possible that much of the research and teaching mandate of the centre will only end up providing unnecessary duplication of what already exists?

Because our universities are already under severe financial restraint and because the centre will be able to "acquire any money, securities or other personal property by gift or bequest", will this new situation divert funds that would otherwise have gone to the support of our universities?

Government departments can already call upon existing expertise in meeting their administrative and program needs. In having the centre "develop and provide training, orientation and development programs for managers in the public sector", are we not only duplicating something to which we already have access in our universities? It is also the purpose of academic institutions to "study and conduct research into the theory and practice of public sector management", and one must again ask why the need for a centre to carry out something that is already being done?

Finally, another objective of the centre is to "encourage a greater awareness in Canada of issues related to public sector management and the process of governance and to involve a broad range of individuals and institutions in the centre's pursuit of excellence in public administration." Does this not sound like the mandate one might expect of a reputable program in public administration?

Is there not a danger that the centre will detract from the already existing programs in public administration at our universities? Might it not have been better had one proceeded in cooperation with our universities and put to good use the interdisciplinary expertise which they can bring to bear on the study of public administration and public policy issues?

Also, rather than have a centre based in Ottawa, one might well ask whether it would not make more sense to avail oneself of the expertise of our various academic institutions, some of which may have particular strengths of their own. A decentralized approach, which would permit government administrators to study in different regions, would give them a perspective on the problems of public policy that they would not otherwise get.

There are valid reasons why the government has proposed the establishment of the Canadian Centre for Management Studies. We, on this side, would like to have these questions answered. Therefore, we feel this bill needs further scrutiny.

Some Hon. Senators: Hear, hear!

On motion of Senator Frith, debate adjourned.

• (1140)

AGRICULTURE AND FORESTRY

CONSIDERATION OF TWELFTH REPORT OF COMMITTEE, ENTITLED "CANADIAN REGULATORY PROCESS FOR PESTICIDES"—DEBATE ADJOURNED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Agriculture and Forestry, entitled: "The Canadian Regulatory Process for Pesticides", presented in the Senate on Wednesday, September 7, 1988.

Hon. Dan Hays: Honourable senators, I wish to make a few brief comments about a matter that has been of continuing interest to the Standing Senate Committee on Agriculture; namely, pesticides and their use. The report of the Agriculture Committee entitled "Soil at Risk" raised the issue and did so in the context of the necessity to have available good pesticides and the need to use those pesticides properly to ensure that the agricultural sector has the tools necessary to protect against the undue loss of our most precious resource, the soil in which we grow the food that feeds us.

The committee undertook a study on the pricing of pesticides and, since the preparation of that report, the product's specific registration requirements have been changed and that process has been improved somewhat. However, in its recent study, the committee found that the agricultural sector is still operating with a pesticides control act that is really rooted far in the past. Its main concern was whether a particular pesticide would be effective for the use to which it was intended to be put. There was no concern originally about the environmental effects of a pesticide, nor was there concern about the effects on its users. As we all know, that world has changed and we are now extremely concerned about those things. We received a number of recommendations—I will not list them; they are in the report—which indicate that we need to modernize our legislation and make better provision for the review and licensing processes regarding pesticides so as to provide adequately for our protection and to provide to the users of these pesticides the tools they need to address such serious problems as soil erosion.

Honourable senators, this report contains a number of recommendations, but I will not dwell on them at this time. The report will speak for itself; therefore, I will leave my remarks as general as they have been.

What prompted us to embark upon this study was the suspension of the licence to produce the chemical alachlor, marketed under the brand name Lasso and manufactured by Monsanto. When the right to market that product was suspended, that company requested a review, as it was entitled to do under the current legislation. As a result of that review a risk/benefit analysis was conducted by a review board, which

recommended to the Minister of Agriculture that the chemical licence be reinstated. On the basis of a study done by the Department of National Health and Welfare, which he was entitled to take into consideration and properly should have, the minister decided not to reinstate the licence.

It turns out that the study by the Department of National Health and Welfare was based upon data and scientific evidence that was different from what was made available to the review committee. It left an unsatisfactory situation, which is described and discussed in some detail in the report. In my opinion, it makes the whole system suspect, and that is what prompted us to write this report.

Two chemical companies were involved, because, while the legislation does not require a risk/benefit analysis, that is in fact what occurs. One of our recommendations was that we should formalize that process. In any event, the result was that another chemical called metolachlor, manufactured by Ciba-Geigy, was also brought into question. All in all, it seems to me that both manufacturers have cause for complaint and concern. I think it might have been in the mind of one of the manufacturers that the Senate committee would, perhaps, undertake its own risk/benefit analysis and pass judgment on the minister's decision. We decided not to do that, because we do not have the necessary scientific capability. In addition, it would simply have added another view to the list of those that had already taken place, and it would not fit into the framework that we hope will, as a result of amendments to the legislation, lead to a more certain process. That is basically the recommendation of the committee.

The House of Commons committee also conducted a study, for the same reasons which prompted ours, and made similar recommendations.

Honourable senators, those are all the remarks I wish to make at this time, except to say that I thank all committee members for their attendance, as well as those other senators who participated in our deliberations. I would be remiss if I did not thank our researchers, Jean-Denis Fréchette, June Dewetering, and, in particular, James Robertson, who assisted with the drafting of the report and the consideration of the legal implications involved. With their help we have produced an excellent report, which will go to the minister involved and which I hope, along with other reports he has received, will prompt early action so that we can put in place a better system to decide whether a pesticide should be licensed and, when one is licensed, whether that licence should be reconsidered or withdrawn. That, honourable senators, concludes my remarks on the report.

On motion of Senator Marshall, for Senator Barootes, debate adjourned.

BUSINESS OF THE SENATE

Hon. Jack Marshall: Honourable senators, I believe that all remaining orders stand.

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

Hon. Senators: Agreed.

The Senate adjourned until Monday, September 12, 1988, at 3 p.m.

THE SENATE

Monday, September 12, 1988

The Senate met at 3 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

QUESTION PERIOD

ENTREPRISE CAPE BRETON

ARROW LM MANUFACTURING COMPANY—FINANCIAL ASSISTANCE—CONFLICT-OF-INTEREST GUIDELINES—CALLING OF TENDERS—ESTABLISHMENT OF PRICE

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I should like to ask the Leader of the Government a question about Entreprise Cape Breton. I understand that Arrow LM Manufacturing Company received a substantial financial package from Entreprise Cape Breton, and the facility is now under construction in Port Hawkesbury, Nova Scotia.

Senator Walker: We cannot hear a word you are saying. Will you speak louder, please?

Senator MacEachen: I am speaking in my normal voice. If there is a deficiency, it is in the audio system.

Honourable senators, it so happens that the chairman of the board of directors of Entreprise Cape Breton is the recipient of the main contract for the construction of this facility. I would like to know a number of things. I understand that the Leader of the Government does not have these items at his fingertips, so I will give him notice and hope that he can answer the questions later.

First, are there any established conflict-of-interest guidelines that would govern the relationship between the board of directors, of which Mr. van Zutphen is the chairman, and the contractor, who is also Mr. van Zutphen?

Secondly, were any public tenders called for this particular contract, and is it the policy of the government to have public tenders called for facilities erected by private companies which have been the recipient of substantial financial assistance from the government?

Finally, when the financial package was approved by Enterprise Cape Breton, had the quotations from the contractors to establish the price been in place?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have seen news reports about the particular situation to which the Leader of the Opposition refers. I have asked for a report from my officials. When I receive that report, I will convey to the house the information that the honourable senator seeks.

Senator MacEachen: That is fine.

ILLITERACY

LONG-TERM GOVERNMENT COMMITMENT—ESTABLISHMENT OF MONITORING BODY

Hon. Joyce Fairbairn: Honourable senators, I should like to address a question to the Leader of the Government in the Senate. It concerns the question of illiteracy and the very welcome long-term commitment that was made by the government, through the Prime Minister, in Toronto last week. The very fact that this commitment was made for a period of five years is one of the most welcome signals that could be given to the literacy community across the country, because there will be continuity in the assistance it receives.

I have one question. I ask the minister whether consideration has been given by the government to the establishment of some type of joint parliamentary committee, working group, task force or some similar body that would track this initiative to keep it alive and ensure that the investment ends up at the level where it deserves and is intended to be—that is, in the hands of the people who deal with the issue on the ground level across the country in the literacy community.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not aware that consideration has been given to the establishment of a special parliamentary committee on this matter, but I welcome the suggestion of the honourable senator. I will bring it to the attention of our counterparts in the other place.

AGRICULTURE

WESTERN CANADA—DROUGHT CONDITIONS—GOVERNMENT ASSISTANCE

Hon. Hazen Argue: Honourable senators, I should like to ask the Leader of the Government in the Senate a question. Can the Leader of the Government say how soon there might be an announcement concerning a drought package for western Canada? I read in the press that there is speculation that there may be an announcement of another $1 million or thereabouts. Can the leader tell us when such an announcement about a drought package might be made?

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

of Agriculture, and the Minister of State (Grains and Oilseeds), Mr. Mayer, to ascertain whether any further announcements on this matter are planned.

WESTERN GRAIN STABILIZATION PROGRAM—FINAL PAYMENT

Hon. Hazen Argue: In the same general area, could the Leader of the Government make inquiries and bring us up to date on when the final payment under the Western Grain Stabilization Program may be made? A large payment was made earlier this year. I presume that another substantial payment is coming, and I wonder if the leader could find out about what time that might be expected.

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

INDIAN ACT

BILL TO AMEND—THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), for Hon. Ethel Cochrane, moved the third reading of Bill C-123, to amend the Indian Act (minors' funds and surviving spouse's preferential share).

Motion agreed to and bill read third time and passed.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C., for the second reading of the Bill C-130, An Act to implement the Free Trade Agreeement between Canada and the United States of America.—(*Honourable Senator Hastings*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, at the last sitting I adjourned the debate on this order in Senator Hastings' name. He is unable to be here today, but for today he is pleased to yield to Senator Stanbury.

Hon. Richard J. Stanbury: Honourable senators, I pause at the beginning to pay tribute to those who have already spoken in this debate. A great deal of detail has been handled already, and, to a large extent, I intend to take that into consideration in my remarks.

Honourable senators, all my life I have known the advantages of free trade: as an economics student studying the history of the economic progress of the western world; as a lawyer observing the benefits of extending trade for the people of Canada; and as a consumer seeing the advantage of the broad range of products made available to raise my family's lifestyle through the expansion of trade.

As a Liberal politician I have applauded successive Liberal governments as they took initiatives and participated in the great post-war effort to liberalize trade in the world through multilateral trade negotiations, which resulted in the signing of the General Agreement on Tariffs and Trade and in the establishment of the organization which we now refer to as GATT.

Trade and the expansion of trade excite me, and free trade certainly does not frighten me. However, when I look at the agreement which Bill C-130 proposes to implement, I can only think of the sponsors, who dubbed the agreement "the Free Trade Agreement" and gave this bill the title: "An Act to implement the Free Trade Agreement between Canada and the United States of America", as perpetrators of a gross misrepresentation to the people of Canada and of a gross distortion of the concept of free trade.

Honourable senators, I know that, like all freedoms, free trade is bound to be hedged about by certain limitations. It is almost inconceivable that one could have complete free trade, any more than one could have free speech without some protection against improper conduct. Countervail and antidumping laws are the limitations on free trade normally accepted, provided that they are based on common definition and reciprocity of rules. If all that we were doing was to reduce tariffs even further between Canada and the United States—as might well have been the case anyway under GATT over the next few years—and agreeing upon common principles to deal with abuses, then I would be pleased to agree that this was a free trade agreement and, while I might find it difficult to satisfy myself that we should enter into such an agreement exclusively with our great neighbour to the south, I would at least agree that the agreement should be called a free trade agreement and the bill should be called a bill to implement a free trade agreement. That is what the Macdonald commission recommended as an interim agreement.

However, the agreement and the bill that are the subject of this debate do not represent free trade in any sense except the reduction of tariffs. We do not even have a common basis for dealing with the contingency trade laws—that is, those dealing with countervail and antidumping. Even since the agreement was signed, the Americans have changed the rules by passing their omnibus trade law, which gives new and internationally unacceptable meaning to words such as "subsidy". Because that bill has just been passed, we do not yet know the full implications of its implementation. We do know that we are not exempt from it. Until some agreement has been reached between our countries to conform our definitions, which then incidentally may be in non-conformity with the definitions of the GATT, we will not even be playing by the same rules, and Congress shows no reluctance to pass additional trade laws from which we will not be exempt.

The more important limitations on free trade in the modern era are the non-tariff barriers, which are as numerous as the ingenuity of non-competitive businessmen can invent. In the United States those are administered by various quasi-judicial, but nevertheless frequently political, agencies whose judgments are based on American law only and, under the FTA,

may be appealed to a bilateral panel which must base its decision on whether the American law has been properly applied. However, it can make no more effective judgment than can a panel of GATT, where at least a decision is made on the basis of international rules and by a panel of objective judges drawn from disinterested countries.

If a Canadian businessman persuades his government to appeal to the Canada-U.S. panel, he causes Canada to give up any right to appeal to the international panel under GATT and puts his faith in our ability to persuade a two-party panel, of which both are interested parties, but not necessarily with equal interest, and by which the law of one must be applied.

The whole idea of liberalizing trade is, through negotiation, to chop away at the existing unilateral limitations on free trade as we can find acceptance of general principles by which all parties are willing to live. That is the concept of GATT. We may all be impatient with the speed at which multilateral trade negotiations move, but it has been a recognized principle in GATT that there is no point in chopping away the limitations on free trade until you can get multilateral acceptance of general principles that will commit the trading community to live by a particular rule. The deliberate speed with which the process works gives businesses time to adjust to new situations.

● (1510)

GATT permits its members to enter into bilateral agreements by which the countries involved say that they are satisfied that they can trade with each other in a comprehensive way without many of the limitations that are still effective in the rest of the world. The so-called "Free Trade Agreement" negotiated by the Government of Canada and the Government of the United States is an attempt to move more quickly than the GATT in stripping away those limitations in a manner acceptable to both parties.

Tariff reductions may turn out to be faster than under the GATT, but Canadian tariffs are higher and Canada has more to give up. The elimination of duty drawbacks, for the same reason, is likely to hurt Canadian manufacturers more than American manufacturers. In any event, the exchange rate between our two dollars is much more significant than the tariffs.

There is some improvement over the provisions of GATT in government procurement practices, but, as Professor Wonnacott of the University of Western Ontario says, "compared to what it could have been, it's small change."

There will be some benefit from the harmonization of technical standards, although I must say that in any harmonization process with such a huge partner the probability is that our standards will be the ones that are harmonized out.

Some special consideration is given to agriculture, alcohol, energy and automobiles. There have been and will be a number of speeches dealing in detail with these matters, but my impression is that the impact on Canada of these articles runs from harmless to disastrous.

Why were we interested in negotiating a trade agreement with the United States? In the first place, a couple of years ago it looked as though the Uruguay Round of the GATT negotiations was not going to get off the ground and would be too slow in accomplishing a further liberalization of international trade. Secondly, the Americans appeared to be becoming more and more protectionist. They had huge trade deficits and were examining all sorts of measures for reducing their deficit by restricting the imports of other countries. Thirdly, there was a fear of side-swiping. If the Americans decided that they were mad at Japan, the fear was that they would take action against Japan and that Canada, even though it was really a fair trader with the United States, would be caught in the maelstrom of the conflict. Then I think it is fair to say that the United States, at least sector by sector, if not through the Congress and the administration, set out to intimidate us. Actions were taken which were expensive for our producers to defend. Even if they won, the trade action was repeated and became harassment.

There was fear in the business community in Canada—fear that the multiplying non-tariff barriers in the United States would drive Canadian businesses, individually and perhaps by sector, into bankruptcy. That fear was conveyed to the Canadian government. Although the leaders of the Conservative Party and the government gave assurances before the elections that free trade with the United States was unthinkable, by 1986 the government was so firmly in the hands of the major companies in Canada, both national and transnational, that they were talked into entering these negotiations. A little thought would have demonstrated that these fears were based on a false analysis. Our trading status with our largest trading partner was never that tenuous. However, it was the normal reaction to fear—fear in the business community, fear in the government—and the normal reaction to fear is panic. When, as a result of panic, you make all the wrong moves and lose your bargaining position, then the only course left open, if you are going to get an agreement, is subservience. The federal government, through panic, had disposed of all of its bargaining chips. Without compensation, it gave away FIRA; without compensation, it gave away the National Energy Program. In an embarrassing way it turned Canada into Ireland North and began its supplications, which, predictably, resulted in giving away the store.

If the Free Trade Agreement is that bad, why is big business in favour of it? I know a number of businessmen and I have the highest respect for their judgment in many ways. Quite frankly, many of them have asked me to support this bill. I have told them that, unfortunately from their point of view, I cannot look at the agreement or the bill just from the standpoint of business. I must look at it from the standpoint of the people of Canada and what it will do to our country in the long run.

I am satisfied that many of the businessmen are sincere, but I also know that they have been motivated by the fear that I mentioned earlier—the fear that the Americans will take some vicious step against their industry, as they have in softwood, shakes and shingles, fisheries, steel and so on. Understandably, they look at it from the standpoint of their own company

rather than looking at the way it will change the face and nature of Canada. They naturally look at the short term rather than the long term. They have to answer to shareholders now and they may not be the chief executive officers of their companies in ten years.

That short term approach does not inspire patience with the multilateral trade negotiations, which take several years—even though the Uruguay Round is now speeding up and will have a mid-term conference in Montreal in December. Another factor is that a great many of our major companies are owned abroad and the decision to support or to oppose the trade agreement is made at head office, not in Canada.

I also think it is fair to say that, with eminent and important exceptions, Canadian business people have been slow in understanding that there is a much greater world of trade beyond the United States. It has taken a long time to persuade them that they can do business elsewhere, so they have become more and more dependent on their sales in the United States, and I believe that that is not good for Canada.

You may think that I cast these aspersions without thought and without experience. In fact, I do not regard them as aspersions. I regard them as simple statements of fact which most businessmen would recognize. There has been a tremendous change in the attitudes of Canadian business over the last 20 years, but there is still a long way to go.

Twenty years ago, when I took my initial interest in international trade, there was very little business in Canada that was interested in exporting to the world outside North America. Our foreign business activity beyond the United States was limited to some consulting engineers, to some banks and to some insurance companies. Our resource companies simply took orders; they did not go out and sell, and our manufacturing sector was hardly conscious of the developing markets.

In 1968 I was in Colombia, South America, lecturing to a seminar. I asked some of the businessmen in attendance what they bought from Canada. I was told invariably that they had never seen a Canadian businessman.

In 1970 I was in Iran and was shown their growing industrial complex. They spoke warmly of the help the Canadian government was giving them in finding copper in the Elborz Mountains, but their industry was buying nothing from Canada.

In 1971 I accompanied our Minister of Industry, Trade and Commerce, Jean-Luc Pépin, to Chicago for an important business speech that he was to make. We visited the Canadian consul general in Chicago. He told us that even in the United States it was impossible to get car parts makers in Canada to expand their plants to participate in the huge after-market sales that were developing in the automotive business. Catherine Swift of the Canadian Federation of Independent Business calls the trade agreement "a very useful kick in the pants". The kick is needed even more to get business to go beyond the United States.

In 1971 I spoke to the Minister of Industry of Equador. He said, "We want to develop hydro power. When we think of hydro power we think of Canada and Japan. Every morning I come into my office and find the waiting room full of Japanese businessmen. I haven't seen a Canadian businessman in five years."

Government attitudes were no better than those of business. In 1973, after the oil crisis began, I was approached by a representative of 12 companies who felt that a market was developing for their services in Iraq. They had approached the Department of Industry, Trade and Commerce for leadership. Their request was rejected, but they got agreement that, if they could find a leader, the mission would be given status. I agreed to lead the mission and we were given status. In February 1974 I led the first Canadian trade mission to Baghdad. By that summer the Canadian government and other companies had decided that it was a good initiative and I was sent back to Baghdad, heading an official delegation with provincial, business and federal representatives. That was the first Canadian business effort in Iraq.

● (1520)

In 1977 a group of businessmen approached me to see what could be done about trade with Taiwan. Because we did not recognize Taiwan, almost no Canadian exports were going to that country, whereas Taiwan was selling a great many consumer goods to Canada. After clearance from the Canadian government and after briefing by Industry, Trade and Commerce and External Affairs, I visited Taiwan and organized the Canada-Taiwan Trade Council, as a private Canadian business organization. It was almost impossible to get industrial membership and support at that time. That situation has changed and now Canadian exports to Taiwan are approaching $1 billion.

In 1979 14 companies that had been working in the Middle Eastern Arab countries asked me for advice in light of the difficulties into which Mr. Clark had fallen in the Arab world. We formed the Canada-Arab Business Council, which is now a thriving and important council.

Late in 1979, while I was in India, John Hadwen, our High Commissioner, asked me if I could do for India what I had done for Taiwan. Early in 1980 I brought together about 25 Canadian companies interested in doing business in India and we formed the Canada-India Business Council.

At that point the biggest problem for these trade councils was administration. They all needed conferences organized, newsletters prepared, guides on how to do business in various countries and so on. Fortunately, Sam Hughes, the then president of the Canadian Chamber of Commerce, was persuaded of the need for the chamber to provide an administrative centre for the trade councils with which I had been associated. That service of the Canadian Chamber of Commerce has now been developed to serve about 18 regional and bilateral business councils.

In 1983, in consultation with the Canadian East European Trade Council, I visited Bulgaria, Hungary and Yugoslavia and spoke to officials about improving our mutual trade.

Last year I produced a film for the Canadian Chamber of Commerce, financed half by the Canadian government and half by ten major companies in Canada, called "Canada in Business", because no one had ever produced a film that showed Canada as a sophisticated business community in which foreign businesses could buy, sell, invest, enter into joint ventures and, in general, do anything that they could do elsewhere in the world. That film is now being shown in our foreign posts to visiting trade commissions and by our own missions travelling abroad.

I have recited all those activities to you just to record with you my belief that the health of the business community is essential to democracy, and that the health of the business community in Canada is dependent not only on trade with the United States but on trade with many other markets, which we have been and are still, to a large extent, ignoring.

As a Liberal I believe in the importance of private enterprise. It is the engine that produces the wealth that allows us to operate a civilized society. It operates well and constructively so long as the people of Canada have the instrument of government to ensure that it operates within reasonable limits and accepts its share of social responsibility. Business is wonderful, but in my experience business interest in world exports has required a lot of stimulation, and still does, partly because of comfort with language and business culture in the United States, partly because of ownership and restrictions of transnational companies, and partly because of a certain apathy created by the ease of making acceptable profits merely by trading into the United States.

I do not want to encourage those tendencies. I am concerned that a narrow focus on the United States will discourage our other trading partners and inhibit our own businesses from venturing abroad.

So I say beware of the advice of big businessmen. Most are fine people, but they are naturally oriented to the next quarterly or at least annual statement. I do not question their loyalty to Canada, but, when your boss and your mandate come from abroad, it is relatively easy to rationalize the interests of Canada with the interests of the company. Remember the famous quotation: "What's good for General Motors is good for the United States."

Some of our major companies do not owe allegiance abroad, but have trade relations which are compelling. They are subjected to peer pressure, and if they have been convinced that there could be some economic advantage for their company in the agreement, then it is easy for them to accept the assurances of government, their business organizations and their peers without critical examination of whether there is any benefit for their country. It should be remembered that this is an agreement contracted by a fearful and unpopular government, which was desperate to reach an agreement, any agreement, to blot out the electors' memories of scandalous patronage, corrupt officials, incompetent management and constant flip flops of policy—of which the trade agreement with the United States is one.

I have listened to the discussions in the business organizations. I have suggested that their role should be that of examination of the agreement and objective reporting of the good and bad features. We obviously cannot depend upon this government to provide the slightest objectivity. But, as often occurs, people believe that they must take a position and defend it passionately and without compromise. They are like ostriches hiding their heads in the sands of conviction and abandoning their natural role of pecking the grain from the chaff. The business organizations should have been advising their broad and diverse membership of the advantages and the pitfalls which may await. Unfortunately, instead they have become uncritical partisans in an extremely important national debate.

So what should we do with this bill? Well, I suspect that before we can do anything very much the question will become irrelevant. An election will be called. The bill will die. Depending on the results of the election, either it will be reintroduced in the other place or it will not be. If it is, it will almost certainly be defeated and honourable senators will never see it again. So the question simply inspires an interesting intellectual exercise.

There is no merit in delay. An election is the key. If the people say they have lost faith in the Canada we know—strong, independent, rich and a respectable voice in the councils of the world; if they have decided that they want to abandon the significant role we have played under Liberal governments and the Conservative government of Joe Clark in liberalizing the trade of the world, and replace it with a narrow relationship with a declining economy, in which Canada, the mouse, has no more access or protection than it might well have had under the GATT in the markets of the U.S.A., the elephant, then so be it.

Oh, I know you will say that we will continue to play our role in multilateral trade negotiations, but who in the world do you think will continue to treat Canada any longer as an independent country, with trade interests separate from and sometimes opposed to those of the United States?

If we, the Canadian people, decide not to give up our lifelong determination to treat the United States as our dearest friend and most reliable ally, but nevertheless decide to insist upon maintaining our east-west solidarity, our commitment to equality of regional opportunity, our dedication to the well-being of our people and the self-respect we have gained as an independent voice in the economic councils of the world, then the present government will be replaced by a more worthy government, which will put special effort into GATT negotiations, which will encourage more Canadian businesses to follow the lead of so many excellent Canadian companies into foreign markets beyond the United States, and which will continue to work away at resolving the irritants that always have plagued and always will plague our trade with the United States. They have certainly not been resolved by this agreement.

● (1530)

I have listened with sadness to the threats by my friend John Lafalce, a congressman from Niagara Falls, that if we do not

implement this agreement there will be a trade war between us. I realize that that is the very message that is being given to businessmen across the country. "If we don't accept this deal, the Americans will react violently against us"—the dastardly motivation of fear.

There is no evidence whatsoever to support that kind of proposition. The Americans, before now, have failed to implement treaties and agreements that they have made in solemn form with the Government of Canada. It is a degradation of our sovereignty to suggest that we, the people of Canada, cannot make a decision regarding our own interests in a trade agreement. There is nothing sacred about an agreement hammered out by bureaucrats that the Parliament of one of the parties refuses to implement. Would there have been a trade war if Congress had refused to approve it? The trade interests of Canada and the United States are inextricably locked together. It would be nice if we could operate according to the same rules, but, unfortunately, the Americans have said in this agreement that they will not live by common rules; so why should we commit ourselves to that result?

Just a word about the role of the Senate. If the Leader of the Government in the Senate believes that the Senate has no role to play in an issue of this importance to the country and should not interfere with the will of the elected House, then I seriously believe he should resign.

Some Hon. Senators: Hear, hear!

Senator Stanbury: If his opinion of the legitimacy of the Senate in our constitutional structure, even after its reaffirmation in the Constitution of 1982 and the Meech Lake Accord of 1987, is so low, I am surprised that he accepted nomination by his friend the Prime Minister to this chamber.

All senators understand the limitations of our power. As a result, we exercise our power in the most responsible way. But to sit here and accept a salary while believing that we are absolutely impotent to serve the people of Canada would be a fraud and a scandal.

Some Hon. Senators: Hear, hear!

Senator Stanbury: This is not a partisan comment. I am sure that every one of my colleagues opposite believes that he or she was appoianted to this body by the Prime Minister of the day because the Prime Minister knew that there was evident, in him or her, a desire to serve constructively the people of Canada. It is true that we are not disciplined by the reality of elections, but each one of us is disciplined by his own self-respect, his love for his family, his love for his community, his love for his province, his love for Canada and for the venerated constitutional system that has provided us with peace and good government for 121 years. We are disciplined by a desire not to dishonour the duly elected Prime Minister who appointed us in accordance with constitutional law and precedent. I have no intention of dishonouring the memory of Lester B. Pearson.

If, as the Leader of the Government in the Senate suggests and as the Prime Minister has suggested from time to time, our role is to waste our time and that of the country by mulling through badly drafted legislation that comes to us after cursory and sometimes careless processing in the other place and do nothing about it, or if, when we receive a bill of such transcendental importance as Bill C-130, our role is to debate it with no expectation that anything will ever come of our judgment, then he insults each senator on whichever side of the house he or she might sit.

Some Hon. Senators: Hear, hear!

Hon. Richard J. Doyle: Honourable senators, there are some aspects of the rhetoric of the free trade debate that I should like to draw to your attention, but, if I may, I shall begin these remarks with a few lines from a book of English tales edited by Joseph Jacobs. His story begins this way:

> One day, Henny-Penny was picking up corn in the cornyard when—whack!—something hit her upon the head. "Goodness gracious me!" said Henny-Penny. "The sky's a-going to fall. I must go and tell the king."

In the Jacobs book there is no indication of what it was that really struck citizen Penny from above, although there are references in other versions to a raindrop, a hailstone or even an acorn. But in those accounts we are led to believe that the victim was not Henny-Penny at all. It was an individual named Chicken-Licken or even Chicken-Little.

In any event, the unassailable fact is that the bewildered bird set off to tell the king, and, as the Library of Parliament will verify, was subsequently joined in her mission by Ducky-Daddles, Turkey-Lurkey and other citizens of note who had read the news in *The Toronto Star*. I need not remind my learned colleagues, who are surely familiar with this story, how, along the way, Henny-Penny, Turkey-Lurkey and the others took up with a leader named Foxy-Woxy who led them right into his cave, where—Snap! Chop! and Harrumph!—dinner was served.

I am sure honourable senators would not in these enlightened times abuse their grandchildren with a story of such violence—

Senator Guay: A good Conservative story!

Senator Doyle: —but we in this chamber are surely mature enough to consider this parable of the consequences of shouting, "The sky's a-going to fall!" That is precisely what we have been told about the free trade bill. We have been told that the Canada we know will vanish; that the way this country is governed will never be the same again.

The other night some of us watched two members of the New Democratic Party explaining to a national television audience how Canadian laws to protect the environment would be crushed by the Free Trade Agreement as Canadian manufacturers struggled to remain competitive with their evil American cousins. If the sky is not going to fall, it is to be filled with the noxious fumes of the Free Trade Agreement. We must rush to tell the king!

Should we be surprised at this argument? In a speech given in the other place, the Leader of the New Democratic Party set the tone with his "facts" about the bill. That was a speech in which we might have expected Mr. Broadbent to detail, one by one, the inconsistencies and the imperfections undermining

the Free Trade Agreement. After all, no such treaty is perfect. But this is what we heard:

> The present Prime Minister has handed over control of our future to the United States of America ... He is willing to accept that Canada should become the Northern United States ... This agreement threatens to ruin everything that is different, that is progressive in our country ...

Is it possible that the Leader of the New Democratic Party truly believes his Henny-Penny words or expects the people of Canada to accept his insinuation that the leader and more than 200 elected Conservative members of the government have deliberately and wickedly conspired to bring their country down? Or does he invest in hyperbole—the big accusation—to cloak the absence of reasoned argument?

• (1540)

It is obvious that Mr. Broadbent had the ear of his would-be partner in government, the Leader of the Opposition. Listen to Mr. Turner in full cry:

> Do Canadians want to harmonize our minimum wage with Wyoming's which is $1.60 an hour? Do we want to harmonize our unemployment insurance programs (with a country) where only a quarter of the unemployed are covered? What the government is telling us to do in this trade deal is to close our eyes, sign away our future as Canadians and the right to shape the destiny and direction of our country. It is telling us to give up that which is most vital to us, our sovereignty, our way of life, the way we do things.

An Hon. Senator: Right on!

Senator Doyle: As Mr. Broadbent and Mr. Turner attempt to lead us to the cave of the fox, the cries of what must be told to the king grow louder, grow more hysterical and, may I say, grow more transparent. The purpose is to confuse the people of this country about the intent and the effects of the act. We are cautioned to think of the implications of the Wyoming minimum wage. We are warned that government is risking the ruination of all that is "progressive". Go back, go back, there are dragons where we venture!

Surely in this chamber we do not think so little of the intelligence of the citizens of this country that we would debate this treaty or, worse still, delay this treaty by invoking the perils of the unknown and regurgitating assaults on motive, for starters.

Are we to attempt justification for not dealing with this legislation, as Senator Frith suggested in this chamber ten days ago, because "this government never gave the people an undertaking that it intended to bring forward such important legislation"? Has Senator Frith so soon forgotten the interim report of the Special Joint Committee of the Senate and the House of Commons on Canada's International Relations, a committee on which senators of his party outnumbered those from mine and which recommended to the government "that there be immediate bilateral trade discussions with the United States"? That was three years ago, and I have no recollection of Senator Frith or any of his colleagues opposite arguing that in the "exceptional circumstances" the whole proposition should be set aside. Nor did I hear such a protest when the text of the agreement was sent to the Foreign Affairs Committee for its examination.

Where, all those months ago, was the injured, angered, abused Senator Perrault? It was not until June 9 that he asked, "Are we to be supine and silent while this process is continuing?" Then he gave us the answer, "We are not prepared to do that." I shall not quickly forget Senator Perrault's contribution, for he went so far that day as to compare a stand taken by the Honourable John Crosbie against amending a signed treaty to "the kind of talk in the Reichstag of 1930 under 'Uncle Adolf.'"

Then, last Thursday, Senator Gigantès told us:

> The Canada-U.S. Free Trade Agreement, if it passes, is our new country.

Today we heard Senator Stanbury say that the very name of the agreement was gross misrepresentation and gross distortion. He said that we gave away the store in panic. Is that the level of sensible conclusion we are to hear in this debate of delay? Perhaps not.

I would direct your attention to the message we all received from Senator MacEachen, when Senator Murray, on June 7, proposed pre-study of Bill C-130. Senator MacEachen said:

> If the bill arrives at the end of August or mid-August, then of course we will be in a position to take the bill, give it second reading and have it examined in committee.

Senator Frith, replying to Senator Kelly, improved the atmosphere with a reference to Sir John A. Macdonald, whose wisdom at the time of Confederation has so often been recalled on both sides of this chamber. Sir John once allowed that the Senate might be called upon to postpone legislation. Convention has not supported or sustained that practice. But the recollection opens the door to me to remind the Senate once again what Sir John's great Liberal adversary, Senator George Brown, had to say about free trade when he was this country's chief negotiator in 1875.

Senator Frith: And your patron saint.

Senator Doyle: Senator Brown, I remind Senator Frith, said:

> I feel that in dealing with this matter before the Senate, I shall be sustained by the honourable gentlemen who compose this body in taking an enlarged view of the whole question, in leaving aside many frivolous criticisms that have been made by political partisans, and in contending that because a commercial treaty is very advantageous for one party it does not follow that it may not be equally good for the other. It is very easy to fancy things that might advantageously have been included or omitted in any such arrangement, but it must always be borne in mind that when two parties sit down to make a bargain the result arrived at cannot be what each desires to obtain, but what both will consent to. The merit or demerit of every such compact must therefore be tested

> by looking at its bearings as a whole and not by minute dissection of minor points . . . We are all alike concerned in the prosperity of our foreign commerce and in securing good relations with our powerful neighbours and to those ends we should all heartily contribute, whatever party may be in power.

George Brown, whose role as a Father of Confederation is marked by a statue on this Hill, devoted more than a year of his life to the Reciprocity Negotiations, which included canals and inland waterways, discovery of resources, protection and stocking of fisheries—far more than the exchange of goods. But nearly 60 years were to elapse before the true realization of Brown's dream began to unfold.

In the time between 1935 and the present, bilateral agreements with the United States and tariff reductions through the General Agreement on Tariffs and Trade have removed about 75 per cent of existing trade barriers between our two countries. Yet Canada this day has a secure market of only 25 million people. The U.S. market, as government leader Lowell Murray pointed out, is in excess of 240 million people. The combined market of the European Community and the European Free Trade Association is 360 million people. The Japanese domestic market is 120 million people. What future awaits if we cannot secure access to at least 100 million people?

● (1550)

Senator Frith: Who knows? We have not secured it yet!

Senator Guay: You're still dreaming!

Senator Doyle: Perhaps a better question, Senator Guay, is—

Senator Gigantès: Will the senator allow a question?

Senator Doyle: —is why, after years of experience and mutual prosperity, are the countries of the European Common Market widening their horizons for greater solidarity and enhanced opportunity? Surely not because—

Senator Gigantès: Will you allow a question, Senator?

Senator Doyle: In due time. I waited for two hours to question you last Thursday, Senator; could you give me just a moment or two?

Senator Gigantès: Certainly, sir. You were much more patient than many of your colleagues.

Senator Flynn: It seemed longer to some of us!

An Hon. Senator: You distracted him!

Senator Doyle: I was asking why, after years of experience and mutual prosperity, the countries of the Europen Common Market are widening their horizons for greater solidarity and enhanced opportunity. I was about to add that surely it is not because of diminution of sovereignty, loss of identity or dilution of cultural diversity.

In the debate in the other place, the Prime Minister said this:

> By endorsing the Free Trade Agreement, we say yes to free trade; yes to jobs for our youth and yes to a more prosperous future for Canada. We say yes to the great hopes and dreams of what this splendid nation can genuinely provide to our children, to the cause of freedom and to prosperity around the world.

Senator Frith: One of the United States' greatest states is what we will be.

Senator Doyle: That is a ringing declaration by the Prime Minister and one to which I subscribe. But the Prime Minister does not call the agreement the beginning of a new Canada or the panacea for all our troubles. He leaves the hyperbole to his detractors.

Some Hon. Senators: Hear, hear!

Senator Doyle: He leaves it to Henny-Penny—

An Hon. Senator: We can take a joke!

Senator Doyle: —and her flock.

Senator Frith: Understatement is one of the Prime Minister's greatest attributes. He never indulges in hyperbole.

Senator Doyle: I have always had difficulty when, right over the last word, I get another word from Senator Frith, but it is a remarkable and admirable debating technique.

Senator Frith: Thank you.

Senator Doyle: The Prime Minister leaves the hyperbole to his detractors. He leaves it to Henny-Penny and her flock. It is enough to say that the difference in our existing trade relationship and the one in which our larger access is to be assured is of vital importance to those who think in terms of trade increasingly done on a world basis.

Our partners in GATT know this and hail our entry into this new association with our neighbour. Even the opposition, which champions GATT while denying its rulings, knows this. Mr. Turner and Mr. Broadbent know that we have not gone an irretrievable distance. Either country can cancel on six months' notice if the agreement fails to provide what Senator Brown called "ample equivalents for all we sought to obtain".

There are voices of reason to be heard in the debate over free trade. Voices that perhaps have not been heard by my good friend Senator Gigantès, who has been unable to hear very well since that acorn landed on his head.

Would it interrupt his outrage were I to quote just a few of those in the Liberal Party who have felt compelled to state their case?

First, I shall quote Robert Bourassa, Premier of Quebec, who said:

> We are not talking about the sovereignty of Canada. We are not even talking about a customs union. We are talking about enlarging trade between Canada and the U.S. How could you seriously say that Canadian sovereignty is at stake when we want to protect Canadian markets in the U.S.

May I quote Allison DeLong, member of the New Brunswick Legislative Assembly—need I say, Liberal member? She said:

> This government must make every effort to ensure that New Brunswickers are prepared to accept the challenges free trade will bring; we cannot allow them to cringe or shrink from the opportunities it offers.

May I quote Milton Harris, president of Harris Steel and former chairman of the Liberal National Executive Finance Committee? He said:

> After four intensive years of fighting off protectionist forces in the American steel industry, I was appalled to watch a TV replay of John Turner figuratively tearing up the agreement. Anyone who understands the real world today knows that the status quo in the U.S. is buffeted on all sides by waves of protectionist sentiment.

May I quote Don Johnston, Independent Liberal and former Trudeau cabinet minister?

Senator McElman: He doesn't know much about finance either!

Senator Doyle: He said:

> If you want to protect cultural institutions, you do so through bilateral agreement with the United States . . . (Free Trade) is absolutely vital to Canada's economic health.

May I quote Donald Macdonald, High Commissioner to the United Kingdom, chairman of the royal commission on the economy and Trudeau cabinet minister? He said:

> Can you imagine Broadbent going down to Washington and saying: "Mr. President, I just tore up our trade agreement." He'd just say, "That's a coincidence, Mr. Broadbent, we just tore up the Auto Pact." What would the Member for Oshawa say then?

May I quote Gerald Regan, former premier of Nova Scotia and former Trudeau cabinet minister? He said:

> A good free trade agreement can be the most effective regional development plan this country could have. I believe the greatest assurance of protection of our sovereignty, of our culture, is the maintenance of a strong economy, and free trade with the greatest nation on earth gives us an opportunity to strengthen our economy that any other country on earth would give their eye teeth to have.

Some Hon. Senators: Hear, hear!

Senator Doyle: Honourable senators, I ask your attention for just one more of a long list of men and women who have given careful thought to the Free Trade Agreement and found sensible things to say about it. I will, only briefly, quote the man who you will agree knows more about the treaty that we would implement than any other person on Parliament Hill. I quote the former chairman of the Foreign Affairs Committee of the Senate, George van Roggen.

Senator Doody: Hear, hear!

Senator Steuart: Where is George?

Senator Frith: He knows more about what? What did you say?

Senator Steuart: He's been in hiding ever since!

Senator Frith: Did you say that he knows more about the agreement or more about the subject than anyone else? I want to hear what you said.

Senator Doyle: Who knows more about the agreement? I challenge anyone who has spent the time that he has spent—

Senator Frith: On Parliament Hill?

Senator Doyle: —in the last six months studying the text of that agreement.

Senator Frith: He certainly knows more than Mr. Crosbie!

Senator Doyle: Senator Frith, if you wish to challenge him, it is up to you. This is what Senator van Roggen had to say:

• (1600)

> While I was chairman of the committee, I heard the views of hundreds of Canadians across the country on the Free Trade Agreement. I found most Canadians believe the agreement will bring economic benefits to Canada, that it will give our exporters better access to the large U.S. market, open new opportunities for employment and bring down prices for consumer and other goods.

Senator van Roggen, in his article in the *Financial Post*, went on to say:

> It is a pity that what is essentially an economic agreement has been so distorted by its critics.

Honourable senators, it has been my purpose this afternoon to separate the voices of reason from the distortion of critics. It is a sad fact to me that the worst of the rhetoric in this national debate has had its widest and most concentrated distribution in my home province, Ontario.

Let me speak very briefly about Ontario. In 1966 that province's exports totalled $3.7 billion. Of that, $2.6 billion, or 72 per cent, was in trade with the United States. In 1986 Ontario exports stood at $60.5 billion. Of that amount, $54.6 billion, or 90 per cent, went to the United States. Surely the sin of prosperity has not ruined my native province, destroyed its independence, sapped its cultural or political identity.

Is it wrong to wish some of these good times for the rest of the country? Is it right that this chamber should risk its own credibility and shuck its conventional constitutional purpose just to cry, "Henny-Penny, the sky is falling"?

This time, honourable senators—

Senator LeBlanc: Sounds like the *Globe and Mail*.

Senator Doyle: This time, honourable senators, you have an option. Let the elected representatives of the people decide.

Some Hon. Senators: Hear, hear!

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I move the adjournment of the debate.

Senator Flynn: Will you speak tomorrow?

Senator MacEachen: Yes, I shall speak tomorrow, Senator Flynn.

Some Hon. Senators: Hear, hear!

Senator Frith: Tickets for the gallery are very scarce!

Senator MacEachen: Senator Flynn, will you be here?

Senator Flynn: I certainly will be here. In fact, I came back today to listen to you.

On motion of Senator MacEachen, debate adjourned.

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Ottenheimer, seconded by the Honourable Senator Bazin, for the second reading of the Bill C-148, An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I ask that this order stand in the name of Senator Pitfield.

Hon. Senators: Agreed.

Order stands in name of Senator Pitfield.

PRIVATE BILL

GRENVILLE AGGREGATE SPECIALTIES LIMITED—SECOND READING

Hon. Roméo LeBlanc moved the second reading of Bill S-21, to revive Grenville Aggregate Specialties Limited and to provide for its continuance under the Canada Business Corporations Act.

He said: Honourable senators, the purpose of this bill is to provide for the revival of a company known as Grenville Aggregate Specialties Limited and for its continuance under the Canada Business Corporations Act. While this may not be a frequent occurence, I am told that such problems occasionally arise. A revival with retroactive effect is required because the corporation has been carrying on business notwithstanding the fact that, unknown to its directors and officers, it was dissolved by the operation of the law for non-filing of annual returns.

The sole shareholder of the company, without appreciating the legal status of the company, recently entered into certain agreements for the sale of the shares of the company. The purchaser's interest in the shares is premised on the assets registered in the name of the company and believed by all parties to be owned by the company. Obviously, by reason of the foregoing, these transactions cannot be proceeded with.

The company was incorporated on December 14, 1964, under what was then known as the Companies Act, a federal statute. It continued under the Canada Corporations Act; then, in 1967, because it had failed to file its annual returns, the company was listed in the *Canada Gazette* of June 17, 1967, indicating that, if it did not attend to the three years' filings, it would be struck off the rolls. The company did not comply, and subsequently, on June 22, 1968, a notice appeared in the *Canada Gazette* stating that, pursuant to subsection 125(12) of the Canada Corporations Act, Grenville Aggregate Specialties Limited was no longer in existence.

This company has carried on business with the directors not knowing that it was no longer a legal entity, and I understand, from the information with which I have been furnished by the solicitors for the company, the company proceeded and carried on business on a day-to-day basis in a very ordinary way, as if it were a validly incorporated company.

From the date of its incorporation in 1964 to the present time the company has paid property tax and income tax, oblivious to the fact that it had been dissolved. As a result of the transaction entered into for the sale of shares of the company, the solicitor and others retained to act on behalf of the vendor, in the course of reviewing corporate records, became aware that the company was no longer legally in existence.

I have been assured by the company's solicitor that no person or corporation would be adversely affected by the passage of this bill. In fact, there are other parties who, along with the shareholder of Grenville, have a material interest in the completion of the sale transaction and who will be adversely affected in the event that this bill does not pass. I assume that the principal shareholder is quite prepared to appear before a committee of the Senate. At any rate, the solicitor is quite prepared to do so.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I see no reason to delay this bill. It sounds completely reasonable. I suggest that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs for examination.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. Roméo LeBlanc: Honourable senators, I am told that under rule 95 of the *Rules of the Senate* it would normally take one week for the appropriate committee to meet and study a private bill. Given the fact that we may be heading for dissolution, would honourable senators allow the waiving of rule 95 so that this bill could go forward for immediate examination?

Hon. Royce Frith (Deputy Leader of the Opposition): By referral to which committee?

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

Hon. C. William Doody (Deputy Leader of the Government): I am sorry; is it the intention of this chamber to refer this bill to a committee other than the Standing Senate Committee on Legal and Constitutional Affairs?

Senator LeBlanc: No.

Senator Doody: Or is it your intention not to refer the bill to committee at all?

Senator Frith: Yes, he does intend to, but under rule 95 of the *Rules of the Senate* the committee cannot consider the bill, which is a private bill, for a week.

• (1610)

Senator Doody: I am sorry; I misunderstood the honourable senator. I apologize.

The Hon. the Speaker *pro tempore:* Honourable senators, is it your pleasure, notwithstanding rule 95, that we refer this bill to the Standing Senate Committee on Legal and Constitutional Affairs?

Hon. Senators: Agreed.

Motion agreed to and bill referred to Standing Senate Committee on Legal and Constitutional Affairs.

ROYAL ASSENT BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Phillips, for the second reading of the Bill S-19, An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Stand!

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I wonder if Senator MacEachen can tell us whether it is his intention to speak to this bill during the current session. I remember his saying upon adjourning the debate that he intended to consult with his caucus colleagues to get some indication of their feeling on the bill. There is some feeling in other circles that we should try to move it forward. Of course, we are at Senator MacEachen's disposal on this matter.

Senator MacEachen: Honourable senators, I recall the comments that I made when the second reading motion was put before the Senate. Let me explain the source of my reservations about this bill. First, they are not entirely personal reservations, although I do have personal reservations against removing, not entirely but to a great extent, the ceremony of Royal Assent that I think are solidly based.

Some months ago my counterpart in the House of Commons communicated with me and sought my opinion on a proposal that had been circulated in the House of Commons, to the effect that we revise the Royal Assent procedure. After consultation with the Senate Liberal caucus, I communicated to him that any such move from the House of Commons would not receive the support of the Senate Liberal caucus. That is where the matter stood at the time, and that is the basis upon which I made my comments when Senator Doody moved second reading.

The difference now, of course, is that the move to revise the Royal Assent ceremony has originated in the Senate. Personally, I would oppose the passage of Bill S-19 at this stage. However, I have said that, if there were a groundswell in the Senate to make this revision, I would not stand in the way. Certainly, so far as I am concerned and based upon my consultations with my colleagues, which may be getting a bit stale, I admit, the bill would not be enthusiastically received.

May I just make one or two comments on the basis of my reservations? Having served in the House of Commons, I have made the journey from that House to the Senate to participate in the Royal Assent ceremony. Sometimes it was very inconvenient to members of the House of Commons to be taken from their normal routine and, indeed, be required to go to a body, which they normally do not praise to the Heavens, in order to have bills receive final approval in the presence of Her Excellency or the Deputy of Her Excellency. The House of Commons was summoned to the Senate frequently, and occasionally in the midst of important business.

However, the ceremony serves a purpose. The House of Commons is made to realize that there are two Houses of Parliament, not one, and that the second House of Parliament is as key in the passing of a bill as the House of Commons. As well, the three elements making up the Parliament of Canada are brought together in the ceremony of Royal Assent.

Senator Frith: And it is the only time they are.

Senator MacEachen: Of course, the monarchy or its representative, the House of Commons and the Senate are the three elements of the Parliament of Canada. Therefore, it seems to me wrong at this stage to obscure by a revision—not a total removal but obscure by a revision—the importance of these three elements.

Now that I am a member of the Senate I am quite prepared to say that it is inconvenient at times for the members of the House of Commons to make the journey, but I did it for 30 years, and anyone who is elected to the House of Commons, before being formally summoned—

Senator Flynn: They never come!

Senator MacEachen: —should be informed that they will bear some burdens, including appearing in the Senate.

Senator Flynn: You didn't come when you were in the House!

Senator MacEachen: I certainly did. I often sat by the Throne in the Senate as the minister representing the government.

Senator Flynn: Oh, yes, sitting by the Throne. I remember now.

Senator MacEachen: Those are my reasons for my reservations: one is constitutional and one is practical. I find it inconsistent with any effort to elevate the importance of the Senate to take action to obscure the role of the Senate in Parliament itself.

What are the arguments for doing away with Royal Assent? It is inconvenient. It is inconvenient to the members of the House of Commons, and I acknowledge that inconvenience, which I and my colleagues shared. It is true that I did not always come. Presumably it is sometimes inconvenient for the Deputy of Her Excellency to come to the chamber. Perhaps those who are summoned to become members of the Supreme Court should be forewarned that one of their burdens will be to come to the Senate occasionally to participate in Royal Assent and that, if that burden is unacceptable, they have the option of not accepting the appointment.

Senator Guay: Hear, hear!

Senator Flynn: That is not your best argument!

Senator MacEachen: I am saying that it is inconvenient, and it is inconvenient for members of the House of Commons and the Deputy of Her Excellency. Indeed, it is inconvenient for members of the Senate at times to return to the chamber for a Royal Assent that is delayed.

Essentially, then, I have two reasons for opposing this bill. The first is that the three elements of Parliament are brought together in that single ceremony, and for that reason I feel that the ceremony ought to be maintained.

Senator Guay: Hear, hear!

Senator MacEachen: The second is that it is inconsistent with any effort at this stage to improve the standing of the Senate to introduce changes that seem to obscure its role, including its symbolic role, in the political process.

• (1620)

Honourable senators, I did not intend to make these comments. They are totally extemporaneous, but they express my feelings. Perhaps, as I said, that is my conservatism.

Some Hon. Senators: Oh, oh!

Senator Doody: True blue.

Senator Frith: Where is the soap to wash out the mouth?

Senator MacEachen: If senators, in general, want to take this step, I will certainly not stand in the way, but I will argue against it. I will not pressure anyone, even in this party.

I would adjourn the debate for further reflection.

Senator Doody: In anticipation of the groundswell of which the honourable senator spoke, may I ask if he would be willing to yield to other senators who may wish to speak?

Senator MacEachen: Of course.

Senator Frith: To give the groundswell a chance.

Order stands

[Senator Flynn.]

AGRICULTURE AND FORESTRY

CONSIDERATION OF TWELFTH REPORT OF COMMITTEE, ENTITLED "CANADIAN REGULATORY PROCESS FOR PESTICIDES"—DEBATE CONCLUDED

On the Order:

Resuming the debate on the consideration of the Twelfth Report of the Standing Senate Committee on Agriculture and Forestry, entitled: "The Canadian Regulatory Process for Pesticides", presented in the Senate on 7th September, 1988.—(*Honourable Senator Barootes*).

Hon. Efstathios William Barootes: Honourable senators, I rise to make a few comments on the twelfth report of the Standing Senate Committee on Agriculture and Forestry, entitled: "Canadian Regulatory Process for Pesticides". I think we are having some examples of it today.

The decision by the Minister of Agriculture, in February of 1985, to suspend and later to cancel the alachlor licence to sell Lasso caused this inquiry. This chemical was produced by one chemical company in Canada for about 18 years. The consequence of this cancellation was to allow the continuing licensure of another chemical product of similar function and nature known as "metolachlor" or "Dual". This chemical was produced by a separate or second chemical company in Canada and, in effect, gave it a virtual monopoly in this special field of pesticides.

This brought focus to our committee and brought to our attention certain problems with the Pest Control Products Act of Canada, its regulations, its review boards, its appeal mechanisms and the Pest Management Advisory Board.

Subsequently, the inquiries of the Senate committee and the House of Commons Committee on Agriculture both found that the Pest Control Products Act, which had been suitable for so many years, was now, should I say, in the modern sense, anachronistic and in need of revision to improve the process of these investigations, registrations and licensing of pesticides as well as the ongoing monitoring of these products.

Several areas of concern arose during these investigations, and these are important to consider for future amendments or revisions of the act. The first one is—and it was touched upon in our report: all information on a product and alternative products should be made available to any review board. It was found that in the alachlor situation different sets of data were available to the review board as compared with the department and the minister involved. This led to some variation in the information on which a decision was ultimately based.

The second area we touched upon was that the public should be informed of the reasons for a decision to license, register, de-license or de-register a chemical product, so far as feasible without removing the industrial confidentiality, so that such data could not be used by an unauthorized body which could then benefit from the work done by the licence holder.

The third area of concern that became obvious to members of the committee was that at the present time three separate departments of government and three separate ministers are

involved in an interlinked way in the registration, licensing and monitoring of pesticides. First, the Department of Agriculture and its minister have the function and desire to increase the productivity and the quality of the products that come from the soil or that are produced in agricultural industries. Second, the Department of the Environment and its minister have the function—a great function as we have discovered in these last few years—to protect the soil and the flora and fauna of our country from any immediate or future deleterious effects of the use of these pesticides. Third, the Department of National Health and Welfare and its minister have the function to ensure that no damage or harmful effects are caused to the health and safety of human beings because of the use of these pesticides.

This results in the involvement of three departments and three ministers. Sometimes such cooperation and integration can lead to confusion, and sometimes decisions fall between these three stools.

Some would believe that the productivity of our agricultural industry and our farmers is paramount. Others believe that precedence should be given to the environment and the protection of the flora, fauna and soil of Canada. Still others believe that it is of paramount importance that decisions be based primarily on the health and safety of human beings.

The committee was unable to agree on which of these three ministers should have the final say and be the final arbiter of the decision, but we all agreed that, no matter how many advisory boards, regulatory boards, review boards or whatever were combined to give input and expertise, the decision of registration or de-registration of pesticides should ultimately have a strong element of political accountability.

Failing to find a unanimous solution to that part of the problem, we therefore satisfied ourselves with the usual Canadian method of compromise by offering two options: one, that the authority for the final decision should be a cabinet minister; the other, that it be cabinet itself. As I say, compromise is perhaps the usual solution which we, as Canadians, find to controversial problems that may have a duality of authorization and precedence.

I congratulate the chairman of our committee, who is not here today, for giving such an excellent address on the overview of the problem as we saw it and handled it. I am particularly pleased with the way he brought out the problems that are arising as a result of the Alachlor Review Board and Canada's Pest Control Products Act.

The Hon. the Acting Speaker: If no other honourable senator wishes to speak, this matter is considered debated.

• (1630)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixty-third report of the Standing Committee on Internal Economy, Budgets and Administration (travelling privileges during dissolution), presented in the Senate on Friday, September 9, 1988.

Hon. Roméo LeBlanc moved the adoption of the report.

He said: Honourable senators, I should just like to make one short clarification. We have received a couple of phone calls, asking if this is an increase in the travel points assigned to senators. I wish to make it clear that it is not. In fact, in the case of "national trips", that is, those from outside one's province to Ottawa, it is a restriction to two-twelfths. In the other case it is, in fact, a once-per-week allocation, which is what exists now. So it does not constitute an aggrandizement or an enlargement. It contains some restrictions.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I believe that all remaining orders stand. I would, of course, be corrected by any honourable senator who wishes to speak to any of these orders. Otherwise, I move that all remaining orders stand.

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

Hon. Senators: Agreed.

"WE GAVE TOO MUCH AND WERE NOT GIVEN ENOUGH"

DEBATE ADJOURNED

Hon. Philippe Deane Gigantès rose pursuant to notice of Wednesday, August 17, 1988:

> That he will call the attention of the Senate to the subject "we gave too much and were not given enough".

He said: Honourable senators, one or two of you may remember that on July 20, when I first spoke on free trade in the current batch of speeches, I said that I was going to give you a set of propositions and the arguments that supported them. The last proposition was, "We were misled every step of the way." I did not deal with that when I spoke to you last week. That still remains and I shall deal with it in this inquiry.

I move the adjournment of this debate.

On motion of Senator Gigantès, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Tuesday, September 13, 1988

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

Prayers.

"THE GLOBAL CHALLENGE AND CANADIAN FEDERALISM"

On Tabling of Documents:

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the other day during debate I had occasion to quote from a speech given by Mr. Gordon Robertson, former Secretary to the Cabinet and Clerk of the Privy Council. Senator Molgat invited me to table the entire speech, which I shall now do. This speech, entitled "The Global Challenge and Canadian Federalism", was delivered by Mr. Robertson, Fellow-in-Residence at the Institute for Research on Public Policy, at the annual conference of the Institute of Public Administration in Canada on September 1, 1988.

Document tabled.

HERITAGE RAILWAY STATION PROTECTION BILL

REPORT OF COMMITTEE

Hon. Charles Turner, Acting Chairman of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, September 13, 1988

The Standing Senate Committee on Transport and Communications has the honour to present its

TWELFTH REPORT

Your Committee, to which was referred Bill C-205, An Act to protect heritage railway stations, has, in obedience to the Order of Reference of Thursday, September 1st, 1988, examined the said Bill and has agreed to report the same without amendment, but with the following comments:

Your Committee has noted that, in the French version of clause 4, on page 2, line 11, it states "sur recommendation du gouverneur en conseil" while the English version reads "on the recommendation of the board".

Your Committee has also noted that, in subsection 7(6) of the French version on page 3, line 42 and on page 4, line 1, it states "la Commission doit soumettre au ministre et au ministre des Transports" while the English version on page 4, lines 1 and 2 reads "the Board shall submit to the Minister".

Respectfully submitted,

CHARLES TURNER
Acting Chairman

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

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

[*Translation*]

CANADIAN CENTRE ON SUBSTANCE ABUSE BILL

REPORT OF COMMITTEE

Hon. Arthur Tremblay, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, September 13, 1988

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

TWENTY-SIXTH REPORT

Your Committee, to which was referred Bill C-143, An Act to establish the Canadian Centre on Substance Abuse, has, in obedience to the Order of Reference of Thursday, September 8, 1988, examined the said Bill and now reports the same without amendment, but with the following comment:

Your Committee has expressed its concern with the provision in clause 14 of the Bill whereby the Board of Directors of the Canadian Centre on Substance Abuse is only required to meet "at least twice in each year".

In view of the seriousness of the problems the Centre will be called upon to examine, your Committee, wishing that the Board have proper input from its members, strongly encourages the Board to meet more frequently than the minimum number of times per year provided for in this Bill.

Respectfully submitted,

ARTHUR TREMBLAY
Chairman

THIRD READING

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

[*English*]

Hon. William M. Kelly: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the bill be read the third time now.

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

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

QUESTION PERIOD

CAPE BRETON DEVELOPMENT CORPORATION

PRESIDENCY—APPOINTMENT TO FILL VACANCY

Hon. B. Alasdair Graham: Honourable senators, I have a question for the Leader of the Government in the Senate that relates to the presidency of the Cape Breton Development Corporation, which office has been vacant for a year.

On several occasions during the past year the Leader of the Government said that the appointment was imminent. Is the appointment any more imminent today than it was six months ago or yesterday?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the answer to that question is in the affirmative. It is now a matter of days rather than weeks.

Senator Graham: Could the Leader of the Government confirm that one, Ernest Boutilier, who is the president of the Sydney Steel Corporation, will be appointed to the presidency of the Cape Breton Development Corporation?

Senator Murray: Honourable senators, I cannot confirm that. I will tell my friend that I do believe my colleague Mr. de Cotret is, or will be shortly, on route to Nova Scotia where, if all goes well, he will make an announcement on that matter.

Senator Frith: Is word that senators are awaiting without also imminent?

Senator Graham: Will the appointment of the chairman of Devco, who is now the acting president, be continued further, or will a new appointment be made to the board of the Cape Breton Development Corporation and will someone be named to succeed Dr. Theresa MacNeil?

Senator Murray: Honourable senators, I must confess that I have absolutely no information on that subject.

THE ENVIRONMENT

ISSUANCE OF LICENCE FOR RAFFERTY-ALAMEDA DAMS PROJECT—PROTECTION OF MANITOBA'S INTERESTS

Hon. Gildas L. Molgat: Honourable senators, my question is to the Leader of the Government in the Senate in his capacity as the minister responsible for federal-provincial relations. My question relates to a decision by the federal government to issue a licence for the Rafferty-Alameda Dams project in Saskatchewan. I will not read the whole story that is in the *Winnipeg Free Press* of Sunday, September 11, 1988, but here are the pertinent points:

> A former senior adviser to federal Environment Minister Tom McMillan has accused Ottawa and Saskatchewan of going along with a political deal that blatantly ignores Manitoba's environmental interests.

Elizabeth May is quoted as saying:

> Manitoba's interests have really been shafted. At the point that the licence was granted, they hadn't even begun negotiations with the U.S. in terms of protecting Manitoba.

Mr. Minister, this is a very serious matter for our province. In your capacity as Minister of State for Federal-Provincial Relations, have you had a request from the Government of Manitoba to deal with this matter?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators, I have not.

Senator Molgat: Will the minister undertake to protect the interests of a province in this regard which have been completely ignored by both the federal government and its neighbouring province?

Senator Murray: Honourable senators, the minister will undertake to look into the press clipping that my honourable friend has read into the record and into the authenticity of the conclusions that he has drawn so freely from it.

CANADA-UNITED STATES FREE TRADE AGREEMENT

AVAILABILITY OF GOVERNMENT PUBLICATIONS IN OTHER LANGUAGES

Hon. Azellus Denis: I should like to ask a question of the Leader of the Government in the Senate. We have received a memorandum from the Honourable John C. Crosbie dated September 9, 1988, which reads as follows:

> The following government publications on the Canada-U.S. Free Trade Agreement are now also available in Italian, Chinese, Portuguese and Greek.

I wish to know if, after those nationalities have received those publications, the government intends to have publications made available in Ukrainian, Japanese, German and for all nationalities that exist in Canada.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall have to make inquiries on that point. Surely my honourable friend would not take exception to a policy of providing information on an extremely important initiative of the government not only in our two official languages but also

in a number of other languages that are spoken as first languages by tens of thousands of Canadians.

Senator Frith: Information would be nice; that is right.

GOVERNMENT INFORMATION PROGRAM—COST

Hon. Azellus Denis: By the way, last week you promised to give us the exact amount of the cost of the publicity regarding free trade. You promised that we would get that. Are you ready to give it to us now, or at least give us the approximate amount? Is it close to $20 million, $25 million or $30 million? I want to know exactly what it is and, especially, if we will get the answer before the election.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall certainly undertake, as I did the other day, to try to obtain that information from my colleague Mr. Crosbie. Whether I can do so prior to the issuance of writs for a general election, I do not know.

Some Hon. Senators: Oh, oh!

Senator Corbin: Give him a call! Use the telephone!

Senator Denis: For your information, we received a letter from Mr. Crosbie asking for the name, number of publications required, and so on. It involves 36 documents all told. I suppose that if each and every one of them was multiplied by $0.5 million or $1 million we would reach that figure, a world record for publicity for one government program.

Senator Murray: Honourable senators, I cheerfully concede that among Canadians there is widespread interest in the Free Trade Agreement. My friend, who once represented, and I suppose still represents, in a way—

An Hon. Senator: Shame!

Senator Murray: —a constituency with a large multicultural population, the city of Montreal, should appreciate the value of the offer that is being made there by the Minister for International Trade.

Senator Denis: I suppose that you do not know anything about those who are against free trade so that you could tell people the pros and cons, which would be the honest and fair thing to do.

Senator Murray: Well, honourable senators, I certainly agree that it would be much better to have an informed and intelligent debate than to have the Right Honourable the Leader of the Opposition in the other place committed simply to ripping the agreement up.

Some Hon. Senators: Shame!

Senator Frith: Groan, groan!

Senator Steuart: You can't be very partisan!

Senator Frith: Let the record show that some honourable senators groaned.

[Senator Murray.]

TRANSPORT

PRINCE EDWARD ISLAND—RETENTION OF DREDGES

Hon. M. Lorne Bonnell: Honourable senators, I read in the local newspaper in Prince Edward Island that there is a projected 40 per cent reduction in the Prince Edward Island-based dredges to dredge the lakes, rivers and streams in Prince Edward Island; two of our five dredges are to be mothballed; and the third one is to be shared by New Brunswick. The fishermen at North Lake, Sea Cow Pond, Miminegash, Skinner's Pond and Cove Head are all asking for dredging.

● (1410)

Could the Leader of the Government in the Senate appeal to the powers that be to have these dredges maintained on Prince Edward Island for the purpose of dredging these harbours?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall convey my honourable friend's representation to Mr. Benoît Bouchard, the Minister of Transport.

ESTABLISHMENT OF CANADIAN MERCHANT MARINE

Hon. M. Lorne Bonnell: Honourable senators, I have another question for the Leader of the Government in the Senate. From time to time I hear about the intention of this government to have nuclear-powered icebreakers. Also from time to time I hear that we are to have mine sweepers and that this government intends to continue on with the frigate program started by the Liberal government four or five years ago in Saint John, New Brunswick. Has any decision been made by this government to build a merchant marine fleet and to start a merchant marine service manned by Canadians? This would provide work for our young Canadian men and women and would also keep the shipyards busy.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have nothing to announce on that matter today.

TRANSPORT ROUTE CANADA INC.—PAYMENT OF EMPLOYER CONTRIBUTIONS

Hon. Charles Turner: Honourable senators, I have a question for the Leader of the Government in the Senate. In the last two or three days I have received a great many calls from employees of Transport Route Canada Inc. of Toronto. As you know, that company is going out of business and the Teamsters Union and the Canadian Brotherhood of Railway and Transport Workers Union are concerned. They tell me that there is a pension fund, although approximately $900,000 has not been paid in, and that no payments have been made to the health and welfare plan by the company since last April and that no payments have been made of union dues since last February. The law of the land apparently instructs these corporations to collect dues for these various purposes and they are supposed to pay the money thus collected into the various funds. Apparently this has not happened, and the employees have requested me to ask you what will happen with respect to the various

amounts that are owing to these various organizations and departments.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall review the recital of facts that the honourable senator has just placed on the record and ask my colleague Mr. Bouchard for a report.

NORTHUMBERLAND STRAIT—PUBLIC HEARINGS ON IMPACT ON FISHERIES OF PROPOSED FIXED CROSSING—ENVIRONMENTAL STUDY

Hon. John B. Stewart: Honourable senators, on September 7 of this year I asked the Leader of the Government in the Senate about the fixed crossing between Prince Edward Island and New Brunswick. It was my understanding that the government had received proposals for the construction of such a fixed crossing and that an announcement as to the successful tender was to be made early in September.

My question related to whether or not there would be a public inquiry into the environmental impact of such a fixed crossing. At that time I told honourable senators that fishermen whose livelihood depends upon the condition of the waters in Northumberland Strait have an understandable concern.

Does the Leader of the Government in the Senate have an answer today concerning the plans of the government to hold public hearings? If not, will he give us some assurance that an answer will be given later this week or, in any event, before the dissolution of Parliament?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Again, honourable senators, I do not know, any more than the honourable senator does, when the dissolution of Parliament will come. However, I will certainly undertake to attempt to obtain an answer to his question this week.

Senator Frith: You could perhaps take time to consult Senator Atkins, if you would.

An Hon. Senator: He doesn't know either!

Hon. M. Lorne Bonnell: Honourable senators, I have a supplementary to Senator Stewart's question. The federal environmental assessment and review process (EARP) stipulates that the minister of any department undertaking a construction project, or controlling lands on which construction is to take place, must conduct an environmental review. EARP includes a two-stage process. The first stage of the process is a self-evaluation by the department. The second stage of the process is that the project must be referred to the Minister of the Environment for public review by an independent panel appointed by that minister.

My question to the Leader of the Government in the Senate is: Has this matter been referred to the Minister of the Environment for an environmental study, as per the second stage process?

Senator Murray: Honourable senators, I cannot say off the cuff whether that phase has been commenced, much less completed. I can say for the record—and the honourable senator knows this—that there have been numerous studies and reports within the past couple of years and, indeed, public hearings having to do with the environmental and other impacts of a proposed fixed link between Prince Edward Island and the mainland. However, I am still waiting to find out how my honourable friend voted in the plebiscite.

Senator Guay: That is a secret!

Senator Bonnell: Honourable senators, if the honourable senator wants to find that out, as the Premier of Prince Edward Island said, "You will have to look at my will to find out how I voted", and I am not even putting it in my will.

I should like to know from the Leader of the Government whether the initiating department has decided whether or not further studies are necessary.

Senator Murray: Honourable senators, I shall make inquiries of Mr. McInnes, the Minister of Public Works.

DELAYED ANSWER TO ORAL QUESTION

ENTERPRISE CAPE BRETON

ARROW LM MANUFACTURING COMPANY—FINANCIAL ASSISTANCE—CONFLICT-OF-INTEREST GUIDELINES—CALLING OF TENDERS—ESTABLISHMENT OF PRICE

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, yesterday the Leader of the Opposition put several questions to me in my capacity as the minister responsible for the Atlantic Canada Opportunities Agency. As these questions concern possible conflict-of-interest matters, I shall read the questions and the brief replies into the record now.

Senator MacEachen's first question was: Are there any established conflict-of-interest guidelines that would govern the relationship between the board of directors of Enterprise Cape Breton, of which Mr. van Zutphen is the chairman, and the contractor, who is also Mr. van Zutphen?

The answer is: Yes. All members of the Enterprise Cape Breton board received on May 12, 1986, a copy of the Conflict-of-interest and Post-Employment Code for Public Office Holders. In addition—

Senator Gigantès: Are they Tories, and can they read?

Senator Murray: Honourable senators, the answer to the first part of the question is that they are not all Tories.

Senator Gigantès: So some can read.

Senator Murray: If my honourable friend knew anything about the Liberal Party or, indeed, about Cape Breton, he would know that there are several supporters of his party on the board of that organization and they have been very effective and supportive members, as have all their colleagues.

Senator Gigantès: Good!

Senator Murray: So I would—

Senator Gigantès: So there is literacy on the board?

Senator Doody: Oh, be quiet!

Senator Murray: Let me complete the answer. This is a serious matter between two serious senators. When we need a lighter touch, we will call on Honourable Senator Gigantès.

Senator Gigantès: And you will get it!

Senator Murray: In addition, the ECB board has adopted the following practice in case of potential conflict of interest:

> Any member of the Board who has an actual or potential conflict of interest in respect to any matter, issue, application or project which comes before the Board shall immediately declare such conflict of interest and remove him/herself from discussion, consideration, deliberation or review of subject matter, issue, application or project.

Conflict of interest is an obvious public concern any time a private sector board is asked to advise government on operational matters. However, the agency values the advice it receives from board members and intends to continue to take advantage of this input. The agency will be vigilant to guard against any conflict-of-interest situations, or even the appearance of such situations, and is satisfied that guidelines already in place provide an adequate safeguard.

The second question from Senator MacEachen was: Were any public tenders called for this particular contract—the Arrow LM plant construction—and is it the policy of the government to have public tenders called for facilities erected by private companies which have been the recipient of substantial financial assistance from the government?

The answer to the question is: It is not the policy of Enterprise Cape Breton to have public tenders called for facilities erected for the use of private companies. It is the standard practice of Enterprise Cape Breton not to interfere in the way a business conducts its affairs so long as what it does is in line with private sector practices in the region. However, we have been informed by officials of Arrow LM Company that a tendering process was followed and that the contract was awarded on a competitive basis to the lowest and most attractive of bids received from two Ontario firms and Zutphen Brothers. To the best of our knowledge, the company and the consultant that developed the project for them did so in accordance with standard business practices.

• (1420)

The third question asked by the honourable senator was: When the financial package was approved by Enterprise Cape Breton, had the quotations from the contractors to establish the price been in place?

The reply to that question is: No. We have been informed by officials of Arrow LM that the actual bids for the construction of the manufacturing facility were obtained after the submission of the application to ECB and subsequent to the decision by the ECB board. The construction estimates submitted on the application were based on an estimation of cost produced by two Ontario firms.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I thank the Leader of the Government for his answer, which I will study carefully with respect to the conflict-of-interest portion.

[Senator Doody.]

I ask the minister to consider the situation in this particular case, when bids were invited from two firms in Ontario and one local firm in Nova Scotia, the head of which was the chairman of the Enterprise Cape Breton operation, and no other local firms were offered the opportunity to bid. No Atlantic province firms were given that opportunity; no other Nova Scotia firms were given that opportunity and no other Cape Breton firms were given that opportunity, except the firm headed by Mr. van Zutphen, who, at the same time, is head of the Enterprise Cape Breton operation.

It may be as clean as a hound's tooth, but certainly it is not perceived to be that way, and it would be useful to have some further information on the basis upon which these firms were selected and the amounts of the bids.

I understood the minister to have said that, even though public assistance is involved in a very substantial way, there is no obligation on the part of the private sector firm to have a competitive process. In this case it was not fully competitive when it was on a selective basis.

I put these matters before the minister for his consideration.

Senator Murray: Honourable senators, I appreciate the points raised by the Leader of the Opposition. The policy is as I have stated it to be.

I can tell him that some time ago, not in connection with this case at all, I asked that a review be made of this policy to see whether it would be an undue interference with companies that receive assistance from government agencies under my responsibility to require that they call public tenders for the construction of facilities. There is some difference of opinion on the matter, as the honourable senator will appreciate, but I am having the policy reviewed in a general way, although my concern was not prompted by this particular case; it was some time ago that I asked for a review.

ORDER PAPER QUESTION

LaPRADE FUND—REQUEST FOR ANSWER

Hon. B. Alasdair Graham: Honourable senators, I want to commend the Leader of the Government for responding so quickly to the important question asked by Senator MacEachen only yesterday. I wish my commendations to the Leader of the Government in the Senate could also cover earlier questions.

I have a question—which must surely establish a record in the Senate—that has been outstanding since February 3, 1987. I have asked the Leader of the Government to provide an answer. Indeed, on occasion the Leader of the Government has expressed dismay that he did not have an answer to this particular question.

For his edification, these very simple questions concern the LaPrade Fund and they are as follows: "When was the fund established and for what reasons?" I presume that is not too difficult to answer. "How much money is currently in the fund?" That should not be too difficult to answer. "What was the original amount allocated to the fund and what criteria

determined that amount?" That should be a matter of record. "Have any sums been spent from the fund, and, if so, for which projects and where?" "Is spending for the fund restricted to a particular area of Canada, and, if so, what are the boundaries of the area and how are such boundaries determined?" "What are the criteria, if any, for the projects which can become eligible for funding?" And lastly, "What changes, if any, have been made in the concept and administration of the fund since September 1984?"

I am wondering if the Honourable Senator Murray could enlighten us as to the reasons for the undue delay in responding to this question.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I regret that I cannot do so, honourable senators, but I shall do my best to expedite a reply.

Senator Graham: If he cannot provide us with a reply in the next day or two, will the Leader of the Government undertake to explain to us the difficulties in finding the answers to these questions?

Senator Murray: Honourable senators, if I can find out myself, I shall certainly convey the information to my friend.

EXTERNAL AFFAIRS

APPLICATIONS FOR CANADIAN PASSPORTS—REVISION OF REGULATION RE GUARANTORS—REQUEST FOR ANSWER

Hon. Charles Turner: Honourable senators, can the Leader of the Government in the Senate tell me when I should expect to receive an answer to my question to him some time ago regarding passport applications?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I must say that that question has completely escaped my mind, but I will look into it at once.

INTERNATIONAL CENTRE FOR HUMAN RIGHTS AND DEMOCRATIC DEVELOPMENT BILL

FIRST READING

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-147, to establish the International Centre for Human Rights and Democratic Development.

Bill read first time.

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

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

ROYAL ASSENT

NOTICE

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

13 September 1988

Sir,

I have the honour to inform you that the Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 13th day of September, 1988, at 5:30 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C., for the second reading of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I have an agreement with Senator Everett that he go first, if that is acceptable.

Hon. Senators: Agreed.

• (1430)

Hon. Douglas D. Everett: Honourable senators, I have to admit at the outset that I have not read the Free Trade Agreement. Indeed, I have no intention of ever doing so. Rather, I would prefer to rely on the opinion of experts who can tell me what is in the Free Trade Agreement, because the agreement, as I understand it, is as arcane as some of the sections of the Income Tax Act. I would no more try to explain to honourable senators the meaning of "safe income" under the Income Tax Act than fly to the moon. If I wanted to know about safe income, I would go to David Ward of Davies, Ward and Beck and ask him for a definition. It seems to me that that is rather important. Just because one has read the agreement does not necessarily mean that one understands the agreement.

Senator Flynn: Are you speaking for Senator Gigantès?

Senator Everett: I should like to say further, honourable senators, that there is a question now as to whether or not there should be a referendum on this issue or an election on this issue. I have some difference with that opinion. I believe that a government in our system is elected to govern. If, after investigating matters thoroughly, it decides to bring forth legislation, then that legislation, if it can command a majority in Parliament, should pass. The government should answer to the electorate at the appropriate time. I think it would be a terrible mistake, even on an issue as seminal as free trade, to go to government by referendum.

In fact, I must say that I welcome an election on the issue, but I am somewhat concerned that it will be a very emotional issue, and I have some concern and wonder as to whether or not it will be fully understood by the electorate and whether the decision will be made on sound grounds. But if there is to be an election, and that is to be the central issue, or one of the major issues, then, as far as I am concerned, I welcome it.

I think it is only fair to make my position clear on the legislation and on the Free Trade Agreement. In May of 1987 I made a speech in this house endorsing the concept of free trade. I did that because I have been a long-time free trader. Perhaps that is because I come from Winnipeg, and we in the west, to a large extent, have had a long and favourable association with the concept of free trade.

As to my credentials, I did chair the trade section of the Ottawa rally that followed the Kingston Conference of 1960. I believe that rally was held in 1961. At that rally we managed to get in a plank endorsing free trade into Liberal policy.

I think this is a good agreement.

Some Hon. Senators: Hear, hear!

Senator Everett: Honourable senators are aware that 30 per cent of our income and of our employment are derived from exports. Honourable senators are also aware that we are the only developed country, outside of Australia and New Zealand, without access to a market in excess of 100 million people.

It seems to me that market access is the key issue; and with this agreement we get it. This agreement dismantles most of the trade restrictions between Canada and the United States, and, generally, it has been judged as being better than any similar agreement negotiated anywhere in the world.

Some Hon. Senators: Hear, hear!

Senator Everett: It increases access, it makes that access more secure, and it promises to add to that security. It will most certainly make us more competitive; and in being competitive we will be able to compete to a greater extent with imports from the less developed countries and with countries such as Japan, Taiwan and Singapore.

Also, it is interesting to note that at this stage foreign exporters are looking very favourably on Canada, as a result of this agreement, as a base from which to conduct export operations into the United States. So I say to honourable senators that, on my reading of the material that has been written on this agreement, I believe that a good agreement has been negotiated.

Now what happens if we do not sign that agreement? The House of Representatives in the United States has passed it. There is now a clear indication that the Senate will pass it. If the agreement were not signed by Canada, then I do not think we could once again enjoy the fast-track procedure we have been the beneficiaries of in the United States. One must remember that that fast-track procedure is a yes-or-no option.

Under the procedure, amendments cannot be offered to the bill; so the bill must be accepted as it stands. I do not think we would achieve that again. I think we would see special interest groups forming in the United States, and, thus, we would have a very serious and difficult negotiation. If we do not want an agreement, that is one thing; but, if we do eventually want an agreement, we would be risking a great deal by not signing this agreement now.

There are those who say we could have done better. One of the arguments is that we could have done better by going through GATT. But one must remember that, when you negotiate in GATT, the concessions that you give must be extended to all countries; and both Canada and the United States would be somewhat loath to extend concessions so widely. Beyond that, we have lost nothing by entering into the agreement as far as our position with GATT is concerned. We can still operate in GATT with or without the agreement.

There are those who say that the better way to do it is to have sectorial agreements like the Auto Pact. We tried that, and the fact of the matter is that it did not work. In any event, there is a great danger, in trying to enter into sectorial agreements, of offending the GATT rules. Finally, there are those who say that we should not put all of our eggs in the United States basket, despite the fact that 80 per cent of our trade is with them now. What we ought to do is increase our trade with the rest of the world. That is an admirable suggestion. We have tried it on a number of occasions. Mr. Diefenbaker tried it and Mr. Trudeau tried it; it never really worked.

It is interesting to note that the United Kingdom, in 1970, received 9 per cent of our manufactured exports or merchandise exports. Since the U.K. joined the Common Market, that has dropped down to 2 per cent; so there is no indication that such a policy will be successful. In any event, since we are entering into a free trade agreement, and not a common market, and since, under a free trade agreement, we have the right to establish our own tariffs with the rest of the world and those tariffs do not have to conform to American tariffs, we are still free to attempt, as we should, to increase trade with countries other than the United States.

● (1440)

So, honourable senators, we come down to the final argument against the agreement. The question is: Have we given up too much to get the access we have to the American market? The central issue is that we did not get relief from their unfair trade laws; that is, from countervail, antidumping

proceedings and other contingency protections, such as temporary import restraints. These can be applied where there is intense competition that seriously affects one particular industrial sector. I believe those restraints were applied in the softwood lumber case. If these restraints are applied, the country can impose quotas and tariff surcharges or enter into voluntary export restraints.

It is interesting to note that under the agreement the temporary import restraints can no longer be used; so we are down to the question of countervail and antidumping. It does not surprise me that we did not negotiate a firm agreement on those trade contingencies. In my speech of May of 1987 I said I thought it was unlikely that we would do so, because the history of free trade arrangements has been that every country has maintained the right to countervail and has maintained antidumping legislation. Many ask why the United States did not give up those rights, but had we, as a country, been asked to give up countervail and antidumping legislation we would have refused.

Well, what did we get? We got a trade dispute panel. The laws of Canada and the United States will apply to countervail and dumping, but, in the American case, instead of going through the American courts with a long, involved, politically saturated process, they will go to a supranational panel that will apply the law, but will do so in a far less politically involved manner, in a process that I understand is mandated to take place in less than one year and is considerably less complicated than the GATT process that presently exists. In addition, a panel will be created by the two countries to settle the definition of subsidies on which countervailing can take place. It will report in five to seven years. It would have taken a great deal of effort and it would have been a terrible mistake on the part of either country to have tried to agree on what defines a subsidy and what is countervailable in the short period of 18 months during which the agreement was negotiated.

Honourable senators, there you have the terrible dichotomy of the opponents of the Free Trade Agreement: On the one hand they want an exemption from American fair trade laws and on the other hand they object to any definition of "subsidies" as being an interference with our sovereignty. They maintain that if we go into this negotiation we will lose control of our social programs—medicare, unemployment insurance, maternity benefits and so on.

Generally, it is my understanding that in trade matters the laws of general application have presented no problem in the matter of countervail. One interesting point is that, if there were no agreement on what could be subsidized, we would not have weakened our position from what it is today. Our subsidies can be attacked even today. The fact that we have the Free Trade Agreement does not change that, unless we agree on what is countervailable. If, in the course of making that agreement, our major social programs were attacked, we would have the right to abrogate the agreement within six months. I contend that, if that were suggested by the Americans—which I find it difficult to believe could possibly happen—we would, of course, from a political point of view, abrogate the agreement or threaten to do so.

One area that seems to bother the opponents of the Free Trade Agreement is the concept of harmonization, which is defined somewhere in the agreement as "rendering identical". In determining what defines subsidies for the purpose of countervail, it has been suggested that we will have to harmonize our policies with those of the United States. Because they are ten times as large as we are, harmonization will be to their programs and not to ours, and that will result in the destruction of Canadian social programs and, by extension, Canadian sovereignty. I should like to refer honourable senators to the C.D. Howe Institute's book entitled "Evaluating the Fair Trade Deal". At page 42 thereof the authors state:

> Question:
>
> Does the Agreement compel a general harmonization of social and/or economic policies?

The answer is:

> In some cases, such as the setting of standards, the Agreement urges voluntary harmonization (but does not mandate it). For virtually all broad social and economic policies, however, the Agreement calls only for national treatment, which leaves intact the sovereign right of each country to go its own way on all of its policies, as long as it does not use these policies as disguised barriers to international trade or investment.

National treatment, of course, means only that people in your market are treated the same way as your own nationals are treated. It means no more than that. And the question of harmonization, as the authors state here, is not really an issue.

The other area that seems to bother a lot of people is that of energy. Let me refer to the same C. D. Howe publication. The authors state as follows:

> Question:
>
> By removing all bilateral trade impediments and by agreeing to rules on sharing whenever the government declares an emergency and then restricts exports, has not Canada effectively ceded the right to pursue independent policies with respect to such national goals as resource conservation?

● (1450)

> Answer:
>
> The answer is no. Under normal market conditions, Canadian resources can be used as required to satisfy Canadian needs. There is nothing in the Agreement that forces Canada to continue exporting a given volume of some commodity just because it was exported in the past. The sharing arrangements have nothing to do with normal shifts in sales as market conditions change. If, for example, Canadian demand slowly expanded to require more of the output of an exported Canadian commodity, newly made contracts would reflect the changing pattern of demand by reducing the amount exported over time.

> Furthermore, nothing in the Agreement precludes Canadian governments from requiring that production of any resource-based industry be reduced for conservation purposes. The only thing required is that *if* a government-imposed reduction in output is accompanied by a government-imposed export restriction, the United States must be guaranteed access to the same proportion of the total Canadian supply as it used in the most recent 36-month period.

It goes on to say:

> Question:
>
> Does the Agreement require that the price of Canadian exports to the United States be the same as prices charged in Canada?
>
> Answer:
>
> Canadian producers, including Crown corporations, *have not* relinquished their ability to charge prices that vary with market conditions and the conditions of supply on both sides of the border. Many commodities, such as oil and electricity, are sold under many different conditions at many different prices, and the Agreement does nothing to regulate the terms of commercial price setting. U.S. prices can be higher, or lower, than prices charged at home—subject, of course, to existing antidumping and other relevant laws. What the Agreement prevents is direct government intervention to impose transborder price discrepancies.

The real question that worries people so much is the concept of proportional access. In order for the proportional access rule to work, Canada must first declare an emergency. The current contracts must be violated by that declaration; then the sharing principle takes place. There is nothing unusual in this. It is part of many commercial contracts in the energy and resource field. It is also a principle that Canada is committed to under the rules of GATT, and it is a principle of the International Energy Agency and Canada is one of 20 countries that are parties to that agreement.

Over and above that, as was stated, we are not required to sell our resources to the United States. We may choose to do so as a matter of marketing, but we are not required to do so. If we do, and if we declare an emergency, we can only reduce them in proportion to what they buy in the last 36 months relative to the size of our production.

That includes water. There is nothing in the agreement that says we have to export water. I don't know why that should become an issue, because it is just not there.

I should like to say one thing about water policy. We have said that, as a matter of national policy, we will not, under any circumstances, sell our water. It is interesting to note that we said the same thing about electrical power. Up to, I believe, the mid-fifties there was a general Canadian preclusion to exporting our electrical power. Now we are building plants all over the country and entering into agreements with the Americans to sell our power, because it is very good business for us. We have an excess of water power, and we are going to benefit from it. Yet, because of one of these policies, billions and billions of dollars of foreign exchange that could have benefited Canada went over the rapids. The dam and hydro installations could have been built for far less money than they are being built for today and would probably have been just about as good then as they are today. But that can be the result of these blind policies.

At the present time we do not want to contemplate selling our water to the United States. However, there may come a time when it is not only fair to do so but is the correct thing to do, both from a moral point of view and from an income point of view, with that income benefiting the people instead of being lost, as the hydroelectric earnings, over many years, were lost and could have benefited the people.

Another area of objection is agriculture. As I understand the agreement—

Senator Buckwold: There is no comparison.

Senator Everett: No comparison?

Senator Buckwold: There is no comparison between water and electric power.

Senator Everett: I do not think the honourable senator can say that. There may or may not be a comparison. We may or may not decide at a particular time to sell our resources, but it may be that at some point it is sound to sell our resources. If we adhere to a policy, as we did to the electrical export policy, we may be making a terrible mistake. I do not think we should say at this stage, or at any other stage, that, for all time, we are not going to do this or do that. It may be proper and right and in the best interests of the country to do it, and we should keep an open mind on that issue.

To return to the aspect of agriculture, as I understand the agreement, it allows import quotas to support domestic supply management arrangements. Under the terms of the agreement, I believe, the marketing boards are secure. There is nothing unusual about that. The GATT permits the same kind of import quotas for that reason. Beyond that, as I understand the agreement, an attempt will be made to reach an agreement on agricultural subsidies between Canada and the United States. I also understand that, in the Uruguay Round, the United States and Canada—in our case supported by all parties in the House—are trying to arrange an agreement on agricultural subsidies.

Then there is the Auto Pact. People say that the Auto Pact will be in trouble. Again, the Auto Pact is part of the agreement. It seems to me that it is much less vulnerable to abrogation if it is part of a comprehensive agreement than it would be if it stood alone. In the present circumstances the Auto Pact is not likely sustainable. The Americans have been concerned about our duty remission schemes for some considerable length of time. If there were no free trade arrangement, I believe they would demand renegotiation on the Auto Pact. If that renegotiation took place, because the automobile companies have so far exceeded the safeguards in that pact, I suspect that the pact would be negotiated without the safeguards and without the duty remission possibilities that are

being taken out in the Free Trade Agreement. One must always remember that the Auto Pact does not go on forever. It has a one-year cancellation clause. Without the Free Trade Agreement, it is my judgment that we would have to deal with it.

• (1500)

On the question of services, one must remember that the non-covered services—that is, the services that are not dealt with by this agreement—include transportation, telecommunication, medical, legal, child care, health, education and social services. The covered services are subject only to new laws, and those laws must give national treatment.

In culture, similarly, the agreement preserves the present position. National treatment is required on new issues and new measures only.

So the argument comes down to this: In entering into the agreement are we compromising our sovereignty? Seventy one countries have regional liberalizing trade agreements. Not one has complained that they interfere with their policy independence.

Over the period of the last few years we have reduced our tariffs with the United States, and with the rest of the world. That has not reduced our social benefits. On the contrary, our social benefits have increased during that period. Even today harmonization forces exist, but they relate more to the relocation of people and firms than they do to trade. We still are subject to all the countervail and antidumping legislation. By entering into such an agreement we can at least get free access to the market; enter into negotiations with the Americans on what constitutes a subsidy; and have a supranational panel to determine differences between us.

Once again, I read from the C.D. Howe report, which states as follows:

> Readers who have followed the debate may be surprised to find how few monsters, ready to devour an independent and sovereign Canada, jump from the pages of this study (or from those of the Agreement). Canada is free to develop and to continue its own distinctive policies in all of the important areas that go to the heart of nationhood.

That is the fact. That is the irrefutable fact. This is a good deal. It does not interefere with our sovereignty. It is one that we can live with. There are dangers if we do not go ahead with it. In my judgment this is good legislation on a good agreement, and it should be passed.

Some Hon. Senators: Hear, hear!

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I congratulate those who have preceded me in the debate for their contribution. I congratulate Senator Gigantès for his monumental analysis—

Senator Flynn: That is the right word!

Senator MacEachen: —of the trade agreement and the legislation.

An Hon. Senator: And he read it!

Senator MacEachen: It certainly shows that he is working hard as a member of the Senate. I also congratulate Senator Murray for a well-articulated and well-constructed speech.

In listening to his speech, and later in reading it, I was struck by the heavy reliance placed upon outside sources in defending the Free Trade Agreement, the reliance placed upon the C.D. Howe Institute, upon Donald Macdonald and upon George van Roggen. The line seems to be that if York and Lipsey say that the trade agreement is good, then it must be good. If Donald Macdonald says it is good, then it must be good. If Don Johnston says it is good, it must be good.

We were warned in our first year at university to be wary of argumentation based upon the so-called "authorities". But that is the trap into which Senator Murray and, I am afraid, a number of other speakers have fallen. Rather than struggling analytically and personally with the issues that are involved in the trade agreement, they have resorted to relying upon the judgment of others. I think we must do better than that.

I wonder why, in making his case to the Senate, the Leader of the Government relies upon Liberals, whom he normally regards as quite inadequate,—

Some Hon. Senators: Hear, hear!

Senator MacEachen: —to buttress his case and ignores those who are sponsoring the legislation, namely, the Prime Minister, the Secretary of State for External Affairs and the Minister of International Trade.

In commending him upon his speech, I must say that I would have been more enlightened if he had himself struggled with the issues involved rather than parade before us the views of others—

An Hon. Senator: Right on!

Senator MacEachen: —not all of whom come to the debate as objective witnesses—

Senator Perrault: Hear, hear!

Senator MacEachen: —not all of whom come without a past baggage of commitment to one side or the other.

While I understand that Professor Lipsey is a competent economist, for some time, long before this Free Trade Agreement, he has pursued a mission to bring it about. So he has a personal stake in giving the kind of inadequate, in my opinion, analysis that is contained in the book which has been quoted so frequently.

Senator Murray has referred, and quite rightly, to the importance of the Senate Foreign Affairs Committee report on free trade. It is true that that body recommended a bilateral trade agreement with the United States. He also relied on Donald Macdonald and the royal commission. But he slid over the fact that the most contentious issues in the Free Trade Agreement were not included or warned against or made exceptions of both in the Senate reports and in the royal commission by Donald Macdonald.

Senator Murray: They both support the agreement, though.

Senator MacEachen: It would be possible for any person, certainly anyone who was a member of the Senate Foreign Affairs Committee, to endorse totally that report and still object vigorously to this Free Trade Agreement—

● (1510)

Some Hon. Senators: Hear, hear!

Senator MacEachen: —because there are included in the Free Trade Agreement major items that were not treated upon by the former Senate committee reports. Energy is a major one; services is a major one, as are financial services, agriculture and dispute settlements. In fact, Senator van Roggen himself acknowledged that the Free Trade Agreement had carried the matter much beyond where he had left it in the report of the committee which he chaired, because, he said:

> . . . the current Free Trade Agreement had many major add-ons, if I may call them that, not common to the types of free trade agreement we were considering six years earlier. Just to mention some of them, they include things such as energy, trade in services and financial services. This is the first time these have ever been attempted—

Therefore, in my opinion any senator approaching this agreement would find in it new elements, such as energy, services, financial services, agriculture and dispute settlement, hitherto not examined by the Standing Senate Committee on Foreign Affairs.

I also find it interesting that so few of those who have participated in this debate have relied upon the evidence collected by the Standing Senate Committee on Foreign Affairs on this current agreement. That Foreign Affairs Committee, under the chairmanship of Senator van Roggen—and later, Senator Bosa—held prodigious hearings during which we heard from many excellent witnesses. However, as I say, hardly any reference has been made to the evidence collected by that Senate committee, although reliance has been placed upon other documents that have emanated elsewhere. I think that if Senator Murray, for example, had paid some attention to the evidence heard by the Standing Senate Committee on Foreign Affairs he would not have resorted to the now obsolete and rather discredited argument that protectionism in the United States is a justification for the Free Trade Agreement.

During our hearings in Washington, that proposition was exploded by all witnesses, except—and this must be acknowledged—our ambassador in Washington, Mr. Gotlieb, who still hewed loyally to the government line, despite all evidence to the contrary. Honourable senators, perhaps I should refer to one or two of the citations, because it was of great interest to me—and I think to other members of the committee—when we heard the evidence of the witnesses in Washington. They were quite of the view that, whatever other reason there might exist for entering into a free trade agreement with the United States, it was not because of the threat of protectionism in that country. That was rather a surprise to me.

For example, Julius Katz expressed the view that protectionism was not a national issue. He stated that Canadian fears about U.S. protectionism were misplaced, and it was therefore a mistake to portray the FTA as a defence against protectionism.

Another important witness was Mr. Gary Horlick, who is on retainer to the Government of Canada in Washington in pursuit of its objectives on the Free Trade Agreement. He said that Congress understood that the United States, with its huge external debt, could not afford to be protectionist. He said that Congress talked tough, but its actions were cautious. He claimed that Congress, in two decades, had made only one small, but far-reaching, addition to the U.S. antidumping code: to wit, the formative amendment to the definition of dumping to define it as selling below the cost of production, as well as selling at a lower price abroad. Unfortunately, this broader definition had been widely used, and even Canada has copied it. He insisted that Congress would not pass large protectionist measures. He goes on to back up his assertion by further evidence from which I want to read, and I will be reading from a staff memorandum prepared for the Standing Senate Committee on Foreign Affairs following its visit to Washington. The staff memorandum is, of course, a staff document which does not necessarily reflect the view of members of the committee. I will refer to that document later, because I think the staff memorandum has accurately reported the comments of the witnesses, but it has not included in sufficient degree, in my opinion, the questions and comments put by senators in the course of the hearings in Washington. So I make those preliminary comments about the speeches, and particularly the one made by Senator Murray.

Honourable senators, it is impossible to cover this Free Trade Agreement in one, or even in several speeches. It is so comprehensive and so complicated that it is impossible to deal with even one sector adequately in a speech. Anyone who has sat in and listened to the evidence understands fully what a detailed, comprehensive and far-reaching document the trade agreement is, and that is true also of Bill C-130. Therefore, in my speech I am covering the surface of the areas I will select for consideration, and the first of those is the question of non-tariff barriers and the dispute-settlement mechanism. The dispute-settlement mechanism is a new area for Canada. Certainly it was not covered by Senator van Roggen or his committee. I was interested that Senator Murray had redefined the government objectives in his speech. Certainly his definition of objectives made absolutely no reference to the necessity, which the government originally declared, that a free trade agreement must exempt Canada from the trade remedy laws.

The Prime Minister, in what was meant to be a statement of objectives for the negotiations with the United States, said that he wanted a comprehensive agreement addressing non-tariff barriers. He did not get it. He went on to say:

> Let me leave no doubt that first, a new regime on trade remedy laws must be part of the Agreement.

The Prime Minister did not get that either. That objective had been made earlier by the Prime Minister in New York, as quoted by the *New York Times*, when he said:

> . . . the US Trade remedy laws can't apply to Canada, period.

And the Honourable Pat Carney confirmed:

> Non-tariff barriers are on the table.

• (1520)

John Crosbie reaffirmed the point when speaking to the St. John's Board of Trade on July 2, 1987. He said:

> —unless we get out from under the threat of . . . U.S. trade remedy laws and unless there is an effective dispute-resolution mechanism to bind the Americans to their commitments, a free trade agreement with the United States would not be a good deal for Canada.

Well, we did not get out from under the threat of U.S. trade remedy laws. They are still there, still haunting us, still in place.

Honourable senators, no one can quarrel with these objectives of the Prime Minister and his ministers. We know that the United States is well equipped with non-tariff barriers and that they have been extensively used against Canadian trade. What is disappointing is that the objective established by the Prime Minister and his ministers has not been achieved. We know what happened on countervail and subsidies. Article 1906 of the agreement stipulates that the two countries shall negotiate a new regime concerning subsidies and countervail over a period of up to seven years. The negotiators, by hoisting this centre-piece issue, have candidly admitted that it could not be settled as part of the agreement. However, the Prime Minister has deployed an interesting piece of sophistry to smoke-screen this failure. He said in *Hansard* at the end of last month:

> From time to time the Opposition contends that Canadians have not been exempted from U.S. trade laws . . . This Government has no intention of allowing Americans . . . to dump their products in our market, or to take advantage of subsidies to undercut Canadian companies in their own markets.

The Prime Minister would have us believe that the United States was the demander on trade remedy laws, and that the reason why no progress was made was Canadian reluctance to negotiate on dumping and subsidies. Of course, that illusion flies in the face of all the evidence on the Canadian initiative to draw the United States into a negotiation on subsidies and countervail.

What is also disconcerting and perhaps disappointing is that the government has failed to provide any indication of how it intends to negotiate a new regime on subsidies and countervail in the next round of negotiations foreseen in Article 1906. The truth of the matter is that the negotiations have failed. The two parties were unable to agree on common rules on dumping and subsidies. They merely agreed to disagree and to revisit the issue in future negotiations.

In case there is any doubt about the kind of security of access and relief from the U.S. trade remedy laws achieved by this government, let me quote the President of the United States himself from the statement he submitted to Congress in July:

> The United States retains the right to apply its national antidumping and countervailing duty laws to goods of the other party—

Which means Canada.

> —and also reserves its rights to review these laws.

These are the results, and this is what the Prime Minister has to say about them:

> What are the results? In a phrase . . . security of access . . . Most fundamentally and more importantly the agreement will replace the politics of trade with the rule of law.

The Prime Minister's reference to the rule of law, presumably, also has to do with the dispute-settlement mechanisms between Canada and the United States. The government has placed so much emphasis on the provisions of the agreement concerning dispute settlements and rated them as an achievement of such historic significance that these provisions deserve a bit of scrutiny.

Of course, dispute settlement was clearly a prime target for the negotiation. Pat Carney said, "Of the most important things on our agenda for negotiations are dispute-settlement mechanisms." The government spokesmen, including the Minister for International Trade, emphasized that there must be a better way to settle disputes than that which they experienced on shakes and shingles and on softwood lumber. The free trade negotiation, they argued, should eliminate the uncertainty surrounding the application of U.S.A. non-tariff barriers and, particularly, countervail. Well, yes, there has to be a better way of handling trade disputes than the disastrous government bungling of these important forest product exports. There was indeed room for improvement, but the main reason that the government has placed so much emphasis on the creation of dispute-settlement mechanisms is that it looks to them like a substitute for the security of access and the relief from the U.S. trade remedy laws that it has failed to achieve. The government had to get something on mechanisms, having failed to get something on substance. It would otherwise have brought back an empty bag.

Let us look at what is in this bag. Are the new bilateral dispute-settlement mechanisms really effective? Here again, I think we have to deflate the government's overblown accounts of what it got from Washington. May I remind honourable senators—and this may be a bit tedious—that United States non-tariff barriers fall roughly into three categories? You may remember that at the beginning I said that the Prime Minister wanted a comprehensive agreement addressing non-tariff barriers. Well, non-tariff barriers to be addressed by the Prime Minister fall into three categories. The first is the exclusion of foreign suppliers by pieces of legislation such as the Buy American Act, the Berry Amendment of the U.S. Department of Defense legislation and the Jones Act. These exclusions can only be dealt with by certain derogations in favour of foreign suppliers, or, more simply, by the granting of U.S. national

treatment to Canadian firms. That is the way to secure access for the U.S. products, but it was not achieved. The Prime Minister has conveniently forgotten that national treatment for Canadian firms was one of his prime objectives.

The second category is composed of regulations, such as health standards, sanitary regulations, grades, building codes and safety standards, to which foreign suppliers have to conform if they are to sell in the U.S.A. market. The problem lies in differences between our regulatory framework and that of the United States. The solution will be found in equivalence or harmonization of regulations and standards. This is why, presumably, Article 608 of the agreement provides for further negotiations. However, that was not achieved, although harmonization and equivalence must be achieved if this non-tariff barrier is to be removed in our relationship. Certainly a solution here would be much more relevant than dispute-settlement mechanisms.

The third non-tariff set of tariff barriers is contained in the American trade remedy legislation that deals with antidumping, countervail and other safeguard actions. The agreement provides for prior notification, consultation and, if need be, appeal in relation to U.S. decisions under the U.S. trade remedy laws.

• (1530)

Prior notification is a good thing, if the Canadian embassy in Washington happens to be asleep and the Canadian government enraptured by the American government, as seems to have been the case in the shakes and shingles affair. However, any Washington administration is transparent enough, not to say leaky enough, to reduce the need for prior notification to a matter of courtesy. One could hardly regard it, with an effective Canadian government and our embassy on its toes, as a vital element in the protection of Canadian interests, but there it is.

As to consultations, I would be hard put to find in the past many instances of a U.S. administration's refusal to consult at the request of the Canadian government on matters of mutual interest. It is of course being argued that the agreement brings consultations within the framework of new institutional machinery—that is, a joint Canada-United States Commission headed by the U.S. and Canadian ministers responsible for international trade. The role of this body, as I understand it, would be to provide some kind of conciliation between the parties.

I must say that I do not see it, honourable senators, and I believe those who attended the committee hearings are aware of my skepticism as to the potential effectiveness of this new institutional machinery headed by Canadian ministers on the one hand and United States secretaries on the other. I just do not buy it. I was impressed by the naiveté of some of the evidence given in Washington on this point by a representative from the U.S. Trade Representative's Office. I do not see it, because ministers have certain jobs to do. Canadian ministers, when confronted with a trade issue with the United States, are expected by Parliament to defend Canadian interests, but under this agreement they are asked to take that hat off and to play the role of conciliator in a U.S.-Canada joint commission. I do not see it. I do not think it will greatly improve the present system, but I, honourable senators, would certainly not go to the ramparts opposing this particular arrangement; nor would I go to the ramparts opposing the compulsory and binding arbitration procedures contained in Articles 1103, 1806, 1807 and 1904 of this agreement.

Senator Murray: Would you go to the ramparts opposing the bill?

Senator MacEachen: Articles 1103, 1806 and 1807 are typical arbitration arrangements found in many trade agreements. They authorize the aggrieved party to restore the balance of the agreement by withdrawing some concessions.

It is Article 1904 which constitutes a genuine innovation. This last article provides for the creation of binational panels acting as courts of appeal, issuing binding decisions on antidumping and countervail issues. There has been some concern in the United States about the constitutionality of these panels under the American constitution if their decisions are meant to be enforceable in the United States like any other court decision. This is an American problem, and I do not, therefore, intend to delve into it. It has been pointed out, quite correctly, that courts make judgments on the basis of law. This, surely, is what the Prime Minister was referring to when he said:

> What we have accomplished in the area of dispute settlement

—listen to this!—

> is a triumph for the rule of law in international trade.

Whose law? The binational panels will be interpreting and enforcing American law, nothing but American law, American procedure and American precedents when U.S. non-tariff barriers are slapped on Canadian exports. This is the triumph of the rule of American law in our bilateral trade, at least until the happy time when new rules of law, which the bilateral negotiation has failed to produce, are concocted by the two governments.

One can argue, and it has been argued, that the binational panels will be better than the existing system. Senators interested in reading the evidence given in Washington will find even there a difference of opinion as to whether the existing courts had performed less well than the new binational panels. However, it is to be hoped that there is an improvement, but it is what I would consider, in the overall issues of this Free Trade Agreement, not a major issue in comparison with the stakes involved for Canada in such areas as energy.

The energy section, so we are told or we have inferred, was a last-minute addition to the agreement by Canada in order to secure progress on dispute settlement, which was so necessary for Canada to have. As I said earlier, the complexity of these sectors is very great indeed, and I want to give you my impressions of the implications of the energy section.

One of the main results of the energy section is that it limits the freedom of action of Canadian national actions in the

energy field. That is one of the principal results of the agreement in energy.

The GATT laid down rules in energy goods in the past. There were exceptions, because it was acknowledged in the GATT that crises could occur that would permit the waxing or the violation of the GATT rules. Interestingly, even though various national governments have, from time to time, exercised the right to national action against the GATT standards, they have never been brought to heel, because it is generally understood that energy is a strategic good and that in certain cases a nation must reserve to itself extraordinary action in terms of national or international crises. So far as the energy section of the agreement is concerned, the ability of Canada is severely restrained. That is point number one.

The second point I should like to emphasize is the impact on the National Energy Board. The Free Trade Agreement removes from the National Energy Board its independent status as a regulatory agency. I was in Parliament when, following the Borden commission, the Diefenbaker government introduced—I believe by the late Gordon Churchill—the National Energy Board Act, which was to provide a tough, independent regulatory body, the National Energy Board. Well, that concept is gone. The FTA and the subsequent legislation removes from the National Energy Board the independent right and obligation to license exports of oil and gas when surplus to Canadian requirements.

The surplus testing requirement remains in the NEB as section 83, but its continuation is mere pretense. One of the offensive attributes of the debate is that both the energy chapter and the continuance of section 83 are intended to convey the impression that the Energy Board retains its independent status. That is not true, because the surplus testing requirement in the NEB has been superseded by the new section 84 proposed in Bill C-130.

● (1540)

The National Energy Board is no longer free to deny an export licence and apply a surplus test. No, not at all. If a case is brought before the board alleging that a particular export ought not to be made, the board is no longer able to apply its own surplus test and deny the export application. It must go to the government, to the minister. The minister, if he wishes, then goes to the Governor in Council. The Governor in Council or the minister are free to let the request from the National Energy Board sit there, in which case it will lapse. However, if a decision of the National Energy Board to deny an export licence is upheld, it immediately triggers a period of restriction in Canada. Under this bill, you can no longer have a denial of an export licence in Canada, unless there is declared a period of restriction, which automatically triggers the application of the rule of proportionality. That is the situation.

The precondition for denial of any export licence is the declaration of a period of restriction. The declaration of a period of restriction triggers the application of proportionality, which means that Canadian consumption and/or production must be reduced in equivalent measure if a proportional amount of exports to the United States is to be maintained, as it must be under the FTA.

I invite honourable senators to examine this proposition. It is neither accurate nor relevant to compare this obligation that we are undertaking with the United States to the obligations we have undertaken under the International Energy Agency. Officials before the committee have valiantly attempted to say, "Well, this is not different. Indeed, it is less onerous than what we have undertaken under the International Energy Agency." I say: Not so. The comparison with the International Energy Agency is a red herring. The obligations that we undertook in the International Energy Agency are intended to cover a sharp, quick, abrupt disruption in oil supply, likely originating in the Middle East, and to be of short duration.

One cannot compare that with the necessity of any far-sighted energy board or government to have the power to examine, ten or twenty years into the future, its ability to serve the Canadian market, and to say, "Well, we foresee, ten years down the road, a possible shortage in Canada. Therefore, we ought to deny this export permit, which is over twenty years, because in ten years there will be difficulties." That cannot happen anymore unless a period of restriction is declared, which in turn triggers the law of proportionality.

Suppose that Canadian exports of gas to the U.S. had reached 50 per cent of total production, in other words, 50 per cent usage in Canada and 50 per cent usage in the United States. Presumably, if you ordered a period of restriction, which would be necessary to deny an export licence, you would have to maintain that 50-50 proportion under the FTA. As demand increased in Canada, say, in the ten subsequent years, that demand could not be satisfied, because we would be obligated to send the historic proportion to the United States under this period of restriction.

So we have, honourable senators, the chilling realization that Canadians could experience real shortages of their own resource in order to maintain the flow of that resource to the United States. That is the chilling possibility under the obligations of the Free Trade Agreement. I could not reiterate more strongly my belief that Canada cannot control the amount of exports to the United States and the proportion of Canadian production to the United States unless a period of restriction is in place. So I put that down as something to contemplate. I find that hard to swallow.

Senator Frith: Hear, hear!

Senator MacEachen: When the day comes—as it might—that Canadians have shortages of their own resources and the flow must be protected in an historic proportion for the United States, I believe that the government of the day will face an upheaval in public opinion that will put it off that course, because Canadians will not stand for it.

Some Hon. Senators: Hear, hear!

Senator MacEachen: That is my opinion. That is one point: the relationship between the United States and Canada. I would be pleased if honourable senators could show me that I have made an error in analysis, deliberately or otherwise. It

may not be as finely shaped as it ought to be, but I think it is substantially correct. That is one point.

The other point is that the energy provisions in the FTA constrain and hobble the Canadian government to the point where it will be unable to protect the national interest in future periods of sharp dislocation. We know the manifestations of the oil shocks in Canada and internationally. The manifestation in Canada is a microcosm of the global manifestation, namely, imbalances of supply among the regions of the world. First is the imbalance where the source is in the Middle East and the usage is in western Europe and Japan. Second is the revenue imbalance, with the pouring of money into the OPEC countries and the burdens placed upon the lesser developed countries and, to a lesser extent, upon the industrialized countries. We have gone through that internationally. Do you think it is over? Do you think we have seen the last oil shock? I do not think so.

● (1550)

It will come just as soon as the OPEC cartel deems it opportune. And don't talk to me about markets or "free markets", because the oil market is dominated by an international cartel. I do not think we have seen the last energy crisis. I am of the view that the energy provisions of the FTA could not be complied with by a Canadian government—regardless of its political stripe, be it a Conservative government, a Liberal government or an NDP government—during a re-enactment of the national distress that was caused by the international oil shocks. There will be irresistible pressure on the Government of Canada to do something to mitigate the impact on various regions of the country in the face of an international oil crisis. I was about to say that we have given away all of the tools under the FTA, but we have given away most of the tools.

Senator Murray has said that there was no loss of sovereignty, and he defined that by saying sovereignty was "the ability to manage our own affairs"; but we have lost, in a massive way, the ability to manage our own energy future under the energy provisions of the Free Trade Agreement.

I find parts of the Free Trade Agreement acceptable. In fact, I personally favoured the negotiations. I have no difficulty with attempting to enter into an agreement with the United States, provided it is a good agreement, but this result in the energy section is bad for Canada. I could not personally endorse it unless I were proved to be in error and the evidence given before the committee were proved to be in error. We will have an opportunity to examine the provisions of Bill C-130 on energy and question witnesses in committee. We will have that opportunity.

But what about agriculture? That was not included in the van Roggen report. I appreciated the comments on agriculture made by Senator Balfour. I think he attempted to present a fair impression and a fair account of the impact on Saskatchewan, but I believe that of all the provisions of the Free Trade Agreement, the agricultural provisions will cost the government and the Prime Minister dearly in the forthcoming election, and let me try to explain why.

[Senator MacEachen.]

First of all, as I intimated earlier, the Standing Senate Committee on Foreign Affairs, the proceedings of which have been quoted so frequently by the Leader of the Government in the Senate, sounded the warning bells at the prospect of including agriculture in any agreement. I do not know whether it is necessary to quote, but, if I may, the 1982 report concluded:

> The most notable exception in the bilateral agreement would be agriculture.

Mr. Macdonald, now the High Commissioner, emphasized the difficulty of including agriculture and said that the difficulties would justify deferring free trade for agricultural products until detailed agreements could be worked out concerning supply-management and other subsidy policies. Why did the Government of Canada not accept that advice? Why did it not accept the advice of the Advisory Group on Agriculture? We were told in the committee that the Advisory Group on Agriculture unanimously recommended to the the government that it not include agriculture. Well, it has certainly thrown the Canadian Federation of Agriculture into a tailspin.

In his appearance before the committee, the head of the Canadian Federation of Agriculture could not take a stand. He could not say whether the federation was for or against the agricultural section of the Free Trade Agreement. One can understand the unenviable position of the CFA in light of the confusion and uncertainty which emerged from witnesses before the Senate committee.

I believe it is fair to say that those who export to the United States generally support the agreement in the belief or the hope that it will afford them guaranteed access, but even those supporters, such as the Canadian Cattlemen's Association, are "very disappointed that the FTA does not include an understanding regarding subsidies."

Those whose businesses focus primarily on the Canadian market are generally very concerned about the FTA, believing that they will be unable to compete against imports that are much cheaper.

The dilemma—I will not use the word I intended to use—in which the food processing industry finds itself was described in detail by several witnesses, and Senator Roblin was present and heard the evidence, and that dilemma arises from the necessity that food processors in Canada must face purchasing inputs in a Canadian market regulated by systems of demand and supply-management, involving a higher price regime, as well as the requirement to face American competitors purchasing their inputs in an unregulated and cheaper market. Perhaps I should quote one or two excerpts. John Pigott, a representative of the processed poultry industry warned:

> The government cannot leave us caught in the middle between a regulated and an unregulated market. If we are caught there, we are sure to perish.

I think that evidence was echoed by one witness after another, and that is why, of course, Donald Macdonald said, "Be careful; don't go ahead with agriculture until you know what

you are doing, until you have some knowledge as to the impact upon supply-management."

The Minister of Agriculture says, and believes, that marketing systems are protected under the FTA. I think that formally they are. Senator Murray says that supply-management programs are recognized under the FTA. However, the conditions under which the supply-management systems will be forced to operate under the FTA will destabilize their operations by forcing upon farmers lower returns and wages as the price of survival.

Read the testimony. Look at the eloquent phrasing of Mr. Fleischmann, a former member of the Treasury Board and great authority, no doubt, in the eyes of Senator Murray. Any former bureaucrat has a lot of heft. Look at his testimony in which he describes the process under which supply management must be undermined in Canada if the food processors are to survive. Take a look at Mr. Archie McLean's description before the committee of the double-speak that surrounds this issue. Perhaps I will read it for you to save you the effort of going over the testimony yourself.

• (1600)

Senator Roblin: What page is that on?

Senator MacEachen: It is on page 31:63.

Senator Roblin: Mr. McLean?

Senator MacEachen: Mr. Fleischmann, I believe. The dilemma is how do Canadian processors, operating under systems of supply management, purchasing their inputs from farmers under a higher price regime, compete with processors in the United States, whose goods will no longer be subject to tariffs in Canada; goods from the United States purchased from farmers in an unregulated, non-supply management system? Mr. Fleischmann said:

> . . . there is no doubt in my mind that, over the ten-year adjustment period if the borders open up, there could be a very ameliorative effect on the way that supply management currently operates. I think the producers will become a lot more sensitive to the power of the open market and become more reasonable . . .

Sensitivity and reasonableness in this context mean lower prices and the undermining of the very objective of the supply management system. Mr. Fleischmann, being a former Treasury Board official, was elegant in his phrasing; but Archie McLean of McCain Foods echoed the same thing in a somewhat more blunt manner. He said:

> The only way we can survive is by hammering our Canadian wage earners to take lower wages . . . McCain Foods will survive and thrive with or without the deal. We can go south, but our factory workers and our farmers cannot. The only way that those farmers will survive under the deal as it is written is if they take lower wages.

An Hon. Senator: They closed the plant in Winnipeg!

Senator Roblin: What is the page number, please?

Senator MacEachen: Page 32:57. This dilemma was put forward and no solution was offered by the government officials. There is no solution!

Senator Frith: Except lower prices.

Senator MacEachen: There is no solution! There it is. It is the hard fact that is going to dog the footsteps of the Prime Minister in every agricultural area as he tries to sell the unsellable to the farmers who are affected by this system.

I ask myself what the effect will be on my province—and there were witnesses from Nova Scotia. Has Senator Murray inquired of Cobi Foods of Hantsport how it will fare under the Free Trade Agreement and how much capital investment will be stimulated in Canada now that this new regime may be in place? Cobi Foods is one of Canada's largest food processors. I wonder if Senator Murray has asked the egg, broiler and chicken producers of the Annapolis Valley how they will fare? They are afraid. Has he inquired of the dairy farmers or the board of directors of Scotsburn Cooperative Services Dairy in eastern Nova Scotia? These are concrete problems that will have to be resolved and answered. Of course, we heard from the President of the United States himself, in his statement of administrative action to Congress when his bill was brought forward, that the pressure will be maintained on Canada to go further in the agricultural field and to reduce further import barriers on poultry, eggs and egg products.

There are concerns in the field of agriculture and they have not been fully addressed in the evidence before the committee by government officials. For example, Mr. McLean of McCain Limited—and those of us who heard him found him to be a highly intelligent and articulate witness—was prepared, when we examined the bill, to debate before the government negotiators to elicit from them the answers to the dilemma which has not yet been dealt with by the government. What is to happen to the food processing industry in Canada and to the farmers who provide the inputs to this industry?

Honourable senators, I have talked about non-tariff barriers, the dispute-settlement mechanism, energy and agriculture; and one could go on to deal with other sectors, including financial services. In fact, I had prepared a section on financial services, but I decided not to proceed further because I have done enough to indicate that there are real concerns; and that the reading of documents, no matter how exalted the source, cannot remove the difficulties that have been brought forward before the Foreign Affairs Committee. They are there. There are energy difficulties that have not been answered and there are agricultural difficulties that have not been answered. The representatives of the farmers of Quebec came before the committee and, if "indignant" is too strong a word, they are certainly "unhappy" at the treatment they expect to receive under the Free Trade Agreement.

That completes my remarks on the substance. However, I think I should say a word about the final portion of Senator Murray's speech on the role of the Senate.

Senator Murray: At last, at last!

Senator MacEachen: On the role of the Senate—

Senator Flynn: On the instructions of Mr. Turner also!

Senator MacEachen: On the role of the Senate I hope to be a bit briefer than Senator Murray was, but, if provoked, I may not succeed.

Senator Flynn: You will if you want to.

Senator MacEachen: Senator Murray made an elaborate argumentation on the Senate and Bill C-130. I stated outside the Senate, following his speech, that his argumentation was based on a fiction. The fiction is that there is about to be a collision between the government, determined to have Bill C-130 passed into law, and the Senate, bent on blocking the bill, to use the favourite government word—blocking.

Senator Flynn: That is what Mr. Turner told you to do.

Senator Perrault: You were not there; how do you know?

Senator Flynn: Were you there?

An Hon. Senator: There he goes. Full flight. Flap your wings! Take off!

Senator Perrault: Big expert, big expert!

• (1610)

Senator MacEachen: Senator Murray's argument was that there would be a collision between a government eager to implement Bill C-130 and a Senate refusing to pass the bill—there would be a "High Noon" scenario. Well, the possibility for such a scenario was put in doubt by the Prime Minister himself when he said that he was greatly attracted to calling an election at the end of four years and that the likely date would be the end of this week, when he would concentrate directly upon that question.

Senator Flynn: That will save your face!

Senator MacEachen: The possibility of that "High Noon" scenario has clearly been put in doubt, and it is my expectation that it will be removed entirely within a relatively short time. So I believe that a discussion of the Senate's role in such a scenario is, at the moment, academic. If I am proven wrong and we are sitting a month from now, grappling still with Bill C-130, having fulminations from John Crosbie, frowns from the Prime Minister and homilies from the Leader of the Government in the Senate, then I will be prepared to defend any action taken by the Liberal majority in the Senate.

Some Hon. Senators: Hear, hear!

Senator MacEachen: But I am afraid that that exciting possibility will be removed from us by the Prime Minister, who said yesterday that he must have an election because it is appropriate in these circumstances.

Senator Flynn: What about Mr. Turner's instructions?

Senator MacEachen: Honourable senators, I want to make a few general comments about Senator Murray—

Senator Perrault: You can make more than a few about him!

[Senator MacEachen.]

Senator MacEachen: —and the role of the Senate. We have had some experience over the last four years with the new Senate of Canada—the reformed Senate of Canada.

Some Hon. Senators: Hear, hear!

Senator MacEachen: We heard arguments last Wednesday from Senator Roblin and Senator Murray about our having had, in their view, the audacity to move amendments to government bills.

Senator Perrault: The place is getting riddled with democracy.

Senator Roblin: You never heard me object to that!

Senator MacEachen: We were told by Senator Roblin—

Senator Roblin: Leave my name out of this!

Senator MacEachen: —that the Senate was purely an advisory body. I have always taken the view that the Senate is a legislative body.

Some Hon. Senators: Hear, hear!

Senator MacEachen: I have always taken the view that it derived its legislative authority from the Constitution of Canada, which authority was confirmed as recently as 1982, when the Parliament of Canada and the provinces of this country focused upon the powers of the Senate and left those constitutional powers intact. It is upon those constitutional powers that we rest, and did rest when we exercised responsibly the power to amend bills and send them back to the House of Commons, where a number of our amendments—some would say many—were accepted. The opposition across the way was intense; the government howled with rage, but we persisted, and today that activity by the Senate has been increasingly supported by the Canadian public, who view the Senate as a useful brake upon the excesses of a government with a massive majority in the House of Commons, which it has used without compunction to steamroller a numerically weak opposition.

Honourable senators, we have crossed the Rubicon—or, rather, that bridge on the Rubicon—namely, that the Senate can assert the right responsibly and when necessary to amend government bills.

Senator Flynn: Not always responsibly!

Senator MacEachen: That was resisted by members opposite, who cling to a different view of the Senate. I say that if the Senate, in the future, were to fail to pass a bill, or if it were to block a bill, it would do so under the same authority it exercises to amend bills. It has a legislative role under the Constitution of Canada, and that role is legitimate. For myself, I do not have to ask the permission of the Leader of the Government or that of his chief witness, Mr. Gordon Robertson, to exercise my function, because there is a higher authority; namely—

Senator Flynn: John Turner!

Senator MacEachen: —the fundamental law of Canada.

The Leader of the Government went on to say:

> In no case in the modern history of our Parliament has the Senate defeated a bill at second reading, nor has it thwarted the will of the elected House by blocking a bill . . .

Senator Murray is clearly in error in making that statement. Has he heard of Bill C-83?

Senator Murray: It is still on the order paper.

Senator MacEachen: Have any senators opposite heard of Bill C-83? That bill has been blocked and will continue to be blocked.

Senator Murray: This is the first time we have heard that.

Senator Frith: Oh, no, it isn't!

Senator MacEachen: Everybody in the Senate knows it is blocked, except Senator Murray. It is buried deep in committee. Its undertaker was Senator Flynn, who led the obsequies and put the bill in committee. And no force—not even Senator Murray—will succeed in achieving the exhumation of that bill.

Honourable senators, that is one modern precedent. It was a government bill and, what is more important, it was adorned by that most sacred of shrouds—a royal recommendation.

Senator Murray: And it was passed unanimously in the House of Commons.

Senator MacEachen: What is more, the bill was not only the will of the House of Commons but it was the unanimous will of the House of Commons. Honourable senators, it has been blocked in the Senate, it will continue to be blocked, and it will not be passed in this Parliament!

Some Hon. Senators: Hear, hear!

Senator Flynn: Are you instructing the Internal Economy Committee?

Senator Frith: You are the undertaker who buried the bill!

Senator MacEachen: Why do some senators opposite persist in attempting to sell us on the habits of an old Senate? This is a new Senate, one that is exercising a new legislative role.

Some Hon. Senators: Oh, oh!

Senator Murray: Tell us more about that bill!

• (1620)

Senator MacEachen: Senator Murray called in Gordon Robertson, as his chief witness, in an effort to downgrade the Senate for his short-term political purpose. The use of Mr. Robertson in this case is symptomatic of the love-hate relationship the Tory government has for the bureaucracy. They have made life miserable for the bureaucracy since they took office.

Senator Walker: Nonsense!

Senator MacEachen: The Prime Minister made it absolutely clear what he thought of the bureaucracy before he took office. May I read a number of appreciations of the Prime Minister's of the bureaucracy?

Senator Hastings: By all means.

Senator MacEachen:

> We are not going to be bamboozled by a bunch of self-centred, boggy-brained public servants—

Senator Perrault: Don't talk about Robertson that way!

Senator MacEachen:

> —who are skilled at manipulating cabinet ministers like marionettes. When we come in, walking softly and carrying a big stick, it's going to cause mass cardiac arrest in the Towers-Of-Power of Never-Never-Land.

Senator Perrault: Wow!

Senator MacEachen:

> We're going to give them each a budget and orders to live within it—something they've never dreamed about much less done, and when they can't deliver, they'll be given their pink slip and a pair of running shoes.

Senator Perrault: It is not a bird, not a plane, but it is Superman.

Senator MacEachen: The only public servant I know of who got a pair of running shoes was Derek Burney for that remarkable sprint between the Pearson Building and the Langevin Block for the purpose of saving the Prime Minister's political bacon.

When the bureaucrats can be used to bolster the political fortunes or credibility of the government, they become dear and valuable allies. I find it somewhat cynical that the Leader of the Government, the other day, should rely upon a former bureaucrat, presumably in the category of those boggy-brained public servants, who, out of office, as Gordon is, can still manipulate cabinet ministers like marionettes and succeed in getting them to approve of what he said about the Senate.

I can understand all of you applauding when he condemned us cynical abusers of power on the Liberal side; I can understand that. However, I was appalled when all of you joined in applauding his definition of our Canadian senators, "You and us. You represent no one. You cannot speak for any region. You cannot discharge any function in the Canadian federation."

That is Mr. Robertson's description of you, Senator Murray; of you, Senator Roblin; of you, Senator Flynn; and all of you. It is the description of all of us. We are nobodies. We are non-persons. We are functionless. We ought to drop dead. That is his view.

When I came to the Senate I decided I was not going to drop dead, and I have not.

Some Hon. Senators: Hear, hear!

Senator MacEachen: I do not intend to drop dead and accept the advice of Mr. Gordon Robertson, a former eminent authority, and of a present eminent authority, Senator Murray.

I would pick up on a point made by Senator Stanbury. If I believed, as a Canadian senator, that I represented nobody, that I could not speak for my region, and that I had no function in the Canadian federation, then I would quit.

Some Hon. Senators: Hear, hear!

Senator MacEachen: I would quit. And I believe that if Senator Murray believed that, and had any self-respect, he ought to quit also.

Some Hon. Senators: Hear, hear!

Senator MacEachen: Why do you join with comments of that kind and associate yourself with them in order to downgrade the Senate? Because you are downgrading yourself and all your colleagues. Instead of standing up and declaring what the function of the Senate is, you are agreeing with the meanest of its critics, and I find that quite unacceptable.

I come to another point. On Friday last I was not here, but I found a statement by Senator Murray unacceptable when I read it. Senator Murray, the Leader of the Government, is expected to give us all a tone in this place, and give us leadership, and give us self-respect, and stand up for the Senate. What is his view? "The modern conventions governing the conduct of this appointed body are that we debate, that we deliberate, and that we draw the attention of the other place to any imperfections we believe exist in the bill, and then we accede to the wishes of the elected representatives of the people."

Senator Perrault: Come on!

Senator MacEachen: What is our function according to Senator Murray? We draw attention; we say to the House of Commons, "We draw your attention to this imperfection", and we wait for the first frown, and then we accede.

Senator Murray: The frowns used to come from you when you were Leader of the Government in the other place, and they acceded over there.

Senator MacEachen: I cannot believe that Senator Murray believes that his role is to draw attention to imperfections and then to accede.

Senator Murray came to the Senate approximately nine years ago, when he was 43 years of age. He had 32 years ahead of him. Did he really accept the assignment that for 32 years his job would be to draw attention to, to point the finger, and then, if there is a frown from the other place, to accede, to bow? Senator Murray knows that that is not what we ought to be doing. He knows we ought to take bills and look at them. If we find something wrong in them, we ought to send them back, as we have been doing.

Some Hon. Senators: Hear, hear!

Senator MacEachen: And send them back again if we want to and if we think it is a good thing. At a certain point we are entitled to do what we are doing with Bill C-83, and that is to block it. That is the most modern convention.

Speaking of modern conventions, you will find them in the last four years, where the legislative authority of the Senate has been exemplified in the conduct that we have supported on this side of the house.

I am not going to say it any more, because we disagree. I believe deep down that Senator Murray cannot think so little of himself that he would spend all his life doing the things that he has assigned to himself.

Senator Murray: I know the difference between the elected and the appointed chambers.

Senator MacEachen: I know the difference between an elected member and a senator. I was an elected member for a long time. I am now a senator, and I know the difference.

Senator Murray: I think you have forgotten. You used to know it, but you do not know it any more.

Senator MacEachen: By golly, if I did not, you would have a hell of a lot more trouble than you are having now!

What are we going to do about Bill C-130? We are ready to let Bill C-130 have second reading now, at this moment.

• (1630)

An Hon. Senator: Hear, hear!

Senator MacEachen: On the second reading motion we will let it go on division, and, if you insist on a roll call, we will abstain and send the bill to committee today. That is what we intend to do.

Some Hon. Senators: Hear, hear!

Hon. Duff Roblin: Honourable senators, I think it fair to describe this debate as one of the most interesting, informative and impressive that I have had the opportunity of listening to during my time here.

The speeches that have been made this afternoon, first, by Senator Everett, with whom I heartily agree; and, secondly, from Senator MacEachen, with whom I do not agree quite so heartily, to say nothing of those other senators who have spoken in this debate already, have set a standard that will require our best efforts to approach, let alone to match.

This afternoon we have seen one of the most elegant climb-downs in the history of this institution.

Senator Walker: What is the word?

Senator Roblin: "Climb-down". That happened when we listened to Senator MacEachen tell us what the Liberal Party in this Senate intended to do with this bill, because what he said this afternoon bears only a passing relationship with what he has said previously in other places—

An Hon. Senator: Hear, hear!

Senator Roblin: —about what the Liberal Party would do with this bill, and what the public and this country obviously expect the Liberal Party of the Senate to do with this bill.

Senator Frith: Debate it and send it to committee!

Senator Perrault: That is exactly what we are doing!

Senator Roblin: It expects the Senate, under the aegis of Senator MacEachen—

Senator Frith: Exactly what we were doing a week ago!

Senator Roblin: I refrained from heckling my honourable friend. May I request the same courtesy from him?

Senator Frith: You may make that request. You certainly may.

Senator Roblin: I make that request; I hope that it will be honoured.

What Senator MacEachen had to say was a slight variation, if I may put it that way, of what he has been saying elsewhere about this bill. He led the country to believe that the Liberal Party in this Senate would ensure that the bill did not leave this house before there was a general election.

Senator Perrault: That is right.

Senator Roblin: Now he has said, "That is still true, but what I really meant to say was that the Prime Minister will call an election before we get through with it; therefore, I will not be called on to make good on my policy and my word."

Senator Guay: There is no election!

Senator Roblin: That is what he is saying to us now.

Senator Frith: No; he is not.

Senator Perrault: He is not saying that at all!

Senator Flynn: Yes, he is.

Senator Roblin: I do not think that that has any connection at all to what he said previously.

It is interesting to trace the pronouncements of my honourable friend and others on the question of the role of the Senate in this matter. I too propose to spend some time this afternoon to do so.

Tracing these pronouncements is an interesting task, because it deals with what the reaction of the Liberal Party, led by Senator MacEachen in this house, is on Bill C-130.

On July 7, speaking to Hugh Winsor, he said:

> The Liberal majority in the Senate will not block the federal Government's legislation to implement the free trade agreement with the United States—

He said further that:

> I would think not twice, but 20 times before I would recommend the Senate kill the trade bill in one plunge of the dagger. If we kill the bill in September,—

and it is September now

> —there would not only be a trade issue but I think a constitutional issue.

No blocking, no killing, no thwarting of the clearly expressed wish of the elected chamber in the Canadian Parliament.

Not long afterwards, but quite soon afterwards, came the instructions. My friends opposite do not like the word "instruction". They want me to use a word like "request". Well, I do not mind using the word "request"; it still means "instruction". It came in the form of a request from Mr. Turner to Senator MacEachen to refuse passage of Bill C-130 until after a general election.

How did Senator MacEachen react to that suggestion, that request, that instruction from his leader? He "agreed to withhold passage until there is an election."

Well, he still, by that casuistical mastery that he has of the English language, thinks that he skated himself onside, because he was quite clear not to say when that election would come. Indeed, how could he possibly know? He had to make the assumption that that election would not come before the Senate was forced to deal with the bill that is before us now.

Of course, he adds—and I am surprised that he did not say it today, because I was expecting him to—that, even if he did all those terrible things that he is talking about, and withheld Senate action on this bill until after the general election, he would not be killing the bill. We have heard that from Senator Frith *ad nauseam*. Of course it is killing the bill. It is not just a delay. The heights of casuistry have been reached, to say that. "Delay" means a general election. All right, a "general election" means the bill dies. Everyone must admit the truth, namely, that when that happens the bill is dead.

Senator Flynn: Sure!

Senator Roblin: It is dead in the Senate and in the House of Commons.

Senator Flynn: It is dead in Parliament.

Senator Roblin: It is dead in Parliament. It no longer has a parliamentary existence. We have plenty of evidence that that is exactly what the Liberal Party intends to do.

Senator Stewart, who is a bit of a guru on these matters, had it right. He said, "Mulroney foregoes the bill." How more explicit can you get? Senator MacEachen, supported on some occasions by Senator Frith, opposed both reason and truth by maintaining that delay does not kill the bill.

When Parliament dissolves, the bill dies. If there is an election before the Senate deals with Bill C-130, its passage in the House of Commons counts for nought. The bill is dead and it has to start all over again.

I suggest to you that, when Senator MacEachen accepted this instruction from his leader to make sure that the bill did not pass before there was a general election, he knew precisely what he was doing. He neither intends nor expects, for example, that the bill will be revived in the next Parliament. So, if the bill is not passed in this Parliament, as his own leader has said, it is dead.

There is no way that he can square his statement of July 8 with his subsequent actions in capitulating to the request that he received.

Senator Guay: Call an election!

Senator Roblin: "He proposed a policy, and we agreed." Mr. Turner did the proposing, Mr. MacEachen did the agreeing. That is what he said, as reported in the *Citizen* on July 21.

It is clear for all to see where the strings were pulled. Senator MacEachen had no intention whatsoever of adopting this attitude toward this bill when be began to consider it. He did so only after he had received his instructions from the other place.

Now he talks about the duty of the Senate to consider, to amend and to change. Now he says that we exercise this great supervisory function in this house because he received instructions from his leader in the other place as to what to do about it. That is what has happened, and that is why he has taken

this deliberate act, which, if the normal course of events comes to pass, will mean that this bill will not receive the consent of this Parliament.

What has happened here is obviously a partisan move. I do not, as a general rule, object to partisan moves, because parties are a fact of life in this house and in other places. But the Liberal leader in this house has swallowed himself and his party within two weeks because his political master in another place asked him to do so.

I think that is demeaning to the Senate. If he objects to what civil servants have to say about the Senate, that the Senate is not an institution of any consequence and we should be ashamed to be here, well, I rather think that that action on the part of my honourable friend is demeaning to the Senate.

Instead of exercising that right of sober second thought that we hear about, that impartial, detached and relatively unpolitical approach to questions, we find that, no, the Liberal Party in this house is responding to the request of its leader in the other place to do here what the leader in the other place could not do or did not have the power to do—and may never have the power to do, so far as we can see.

My honourable friend is displaying a shocking lack of candour when he does not tell the members of this house why he has taken the attitude he has taken and why he has made the statements he has made. For my friend to exercise his arabesque, as he has on the floor of the Senate today, and climb down from the pole on which he had immolated himself is indeed a remarkable performance, and I congratulate him on it. It is almost as good as some of the other things he said in his speech today, with which I must say I intend to take some exception.

• (1640)

Honourable senators, I may say a word about the role of the Senate. I do not think that what I have to say about the Senate comes as news to anyone, because, ever since I came here, I have been concerned about the legitimacy of an appointed body dealing with matters that come before it which have received the approval of the elected body.

Senator Frith: Others do it. There are things that come before us that have not had approval—

Senator Roblin: I must say that my honourable friend cannot resist sticking his oar in from time to time. But it has caught a crab this time, and my honourable friend ought just to keep his mouth shut until I am through with these things.

Senator Frith: You did it while my honourable friend here was speaking.

Senator Roblin: He mentioned my name, that is why. He linked me with those who object to the Senate's amending bills. I do not object to the Senate's amending bills; I never have.

Senator MacEachen: That is a conversion.

Senator Roblin: No, it is not a conversion. It is a plain fact on the record, and my honourable friend knows it very well. He also knows that, if he had any of that milk of human kindness I occasionally discern in him, he ought to exempt me from that sweeping statement, saying that I oppose the amending of bills in the Senate.

Senator Flynn: He certainly will not be able to do that.

Senator Roblin: I am not sure whether he will or not. However, we should reflect—and this is probably as good a time as any—on exactly what the Senate is and what it is not. From that we might draw some conclusions as to what we might fittingly and suitably do. The one thing I know about the Senate is that it is not a democratic institution. That has to be made as a clear and absolutely incontrovertible statement: This is not a democratic institution. There is no parliamentary democracy that I know of that is encumbered with an institution such as this, which, in my opinion, has certainly become anachronistic as regards its present role in the Parliament of Canada.

Senator Guay: Why did you accept the nomination, then?

Senator Roblin: I joined the Senate because I hoped to do good work here—and my honourable friend does good work here.

Senator Guay: Prime Minister Trudeau put you here.

Senator Roblin: Prime Minister Trudeau put me here by inviting me to join the Senate, and my honourable friend got here in the same way. I have never disguised the fact, and I am not ashamed of the fact.

Senator Guay: I thought you were.

Senator Roblin: I am not a bit, and I say that this body has a role to play; but the question is: What is that role? That is where the difference of opinion will surely arise, because my honourable friend has to admit that there is no parliamentary body—at least that I know of—that is constituted on what some would assume to be—and I am among them—the dubious principle of patronage appointment. It is unthinkable that a body of this kind, unique in the world so far as I know, would presume to introduce a wrecking amendment, as they call it in the House of Lords, or introduce amendments that would nullify a bill or, even worse, take such action as would prevent the bill from passing after it had received the appropriate consideration of this body. It seems to me that, with all the fine words that we have heard this afternoon about the role of the Senate, we are still not an elected body and we are still not the people's representatives, and we must clearly keep that in mind when we decide what we are going to do.

Shades of the House of Lords! In 1911 the House of Lords did not enjoy the power that the Senate of Canada does today. In 1911, when the House of Lords defied the Commons, the Prime Minister threatened to appoint enough new lords in order to override the recalcitrant majority in that house. However, that cannot be done here. There are a few senators that can be appointed, but not enough today. This body has more power than the House of Lords had in 1911, and in my opinion no one thinks that that is really appropriate for Canada today.

While we have a certain capacity, while we have a right to be here, while the Constitution has clothed us with certain authority, and while those who invented the Senate had certain ideas for us, the fact is that the Senate represents no one in any democratic fashion. It does not. The Senate is responsible to no one in any parliamentary sense. That is perfectly true, and it is invulnerable in its present numbers to any reform with respect to the creation of new senators.

Senator MacEachen: Tell us about the Supreme Court.

Senator Roblin: There is no existing combination of forces that can hold this body accountable for what it does. Keep that in mind.

Senator MacEachen: Tell us about the Supreme Court!

Senator Roblin: If we keep within our role in the Constitution, my friend knows perfectly well that there is no one who can call this body to account.

Honourable senators, in that set of circumstances, how do we exercise those powers? There are things that we should do. The first thing that we should do is press to reform this body. I have heard that the Liberal Party wants an elected Senate. If that does not mean that they have doubts about the political legitimacy of the present one, what on earth does it mean? I know that this party has plans to reform the Senate, and we know that that is on the top of the list as far as constitutional changes are concerned. I wonder why we, as senators, have not taken some more active role in providing thought and input into the construction of a new Senate in this country.

However, honourable senators, while we are here, and while we have the powers that we have, which, as I say, are absolute in certain respects, how do we exercise those powers? First of all, I think we should exercise them. We have a duty to conduct debates like this one. We had a duty to instruct the Standing Senate Committee on Foreign Affairs to look into free trade, and I have the transcripts of every meeting of that committee right in front of me now. We have a duty to hold public hearings and to have people come before us and tell us what they think about things. We also have a duty to make up our own minds as to what we think is right. If we think that the bill before us is not a good bill, we have the right—and I think the duty—to amend it.

I have to remember that, when circumstances were changed, and when my honourable friend opposite was still in the House of Commons, Senator Frith sat on this side of the house, and there was no great enthusiasm on the part of the Liberal majority in the Senate in those days to do anything to interfere with the bills that came before us. Mind you, there were exceptions. There were some exceptions.

Senator Frith: That was the old Senate of Senator Murray; this is now the modern Senate.

Senator Flynn: You woke up!

Senator Roblin: I remember well, through all of these interesting conversions that we see on the other side, that, when they were on this side of the house, they were remarkably reluctant to interfere with any government bill. They did occasionally, but they also did their fair amount of bowing, and they bowed just as low as anyone else did.

I remember well a comment of the Honourable Leader of the Opposition when he was a member in the other place. My, how the Senate improves upon acquaintance. When my honourable friend was over there, what did he think of this institution here? Why, that fellow Robertson had better look out, because my honourable friend really did better than Robertson in denegrating the role of the Senate. In short, my honourable friend was not what you would call one of our enthusiastic friends in the other place. So, as I say, the Senate improves with acquaintance. My friend thinks a lot more of it now, and he thinks a lot more of it because he is now in a position to do here what his friends cannot do in the other place.

That, honourable senators, is what is wrong; that is what is undemocratic. My honourable friend is trying to do here the things that he could not do, and his friends cannot do in the other place, and he is using the Constitution, which gives him a right to do it. He has a clear, undoubted constitutional right to do it, but not the moral authority to do it.

Senator Frith: Another preacher!

Senator Roblin: I know now why Senator Frith supports an elected Senate; because he knows perfectly well that he does not have the moral authority to do what he is doing now.

Senator Frith: Bishop Roblin!

Senator Roblin: He knows perfectly well that his parliamentary role, as he seeks to exercise it, has no moral authority.

Senator Frith: And Archbishop Murray! Thank you, Your Grace.

Senator Roblin: Well, there we are.

Senator Frith: We await the ring-kissing ceremony.

Senator Roblin: So much for the role of the Senate. My honourable friend can fulfil that role honourably, but he cannot, at the end of the day, say that on a major piece of legislation he is not going to allow the House of Commons to have its way. Bill C-83 was brought in with great effect today. What is that bill? It is a tuppenny-ha'penny bill about how much they intend to pay committee chairmen in the House of Commons. That's what it's about!

• (1650)

Senator Frith: A big truckload of ha'pennies.

Senator Roblin: Why does my honourable friend—

Senator Frith: A freight train of ha'pennies.

An Hon. Senator: Order!

An Hon. Senator: It's like Fanny the preacher!

Senator Flynn: Be careful, Royce, you're going too far!

Senator Roblin: I will be in great trouble with Senator Flynn over this, but I shall tell you why these brave men on the other side intend to deny the government Bill C-83; it is

because it does not provide any money for Senate chairmen. That is why they do not want to pass it.

Senator Stewart: That is not correct. You're wrong!

Senator Roblin: That's why they won't pass it.

Senator Stewart: You're absolutely wrong!

Senator Roblin: In the minds of some, it is true. I excuse my honourable friend, as he is the type that it is easy to excuse.

Senator Flynn: I agree with that.

Senator Roblin: However, I want to say to others here that there is that thought in the backs of the minds of some, and I would not be at all surprised if it was the majority. That is why they do not want the bill to go through.

Some Hon. Senators: Oh, oh!

Senator Flynn: Never mind!

Senator Roblin: There, you have it.

Senator Frith: Who knows what evil lurks in the hearts of men?

Senator Flynn: Senator McElman and I have put our position clearly.

Senator Hastings: Who is speaking?

Senator Stewart: You're absolutely wrong!

Senator Flynn: Well, you're absolutely wrong!

Senator Guay: You've been wrong for a long time!

Senator Flynn: Ask Senator McElman.

Senator Roblin: I have obviously touched a sore point with Senator Stewart. I hereby say that—

Senator Stewart: Because you are wrong!

Senator Roblin: —I absolve Senator Stewart and those who think like him freely without any ulterior motive of any kind—

Senator Frith: And do you absolve Senator Flynn?

Senator Roblin: —as dictated by pure reason and political sagacity.

Some Hon. Senators: Oh, oh!

Senator Frith: Absolve Senator Flynn!

Senator Flynn: Why?

Senator Stewart: If you want to withdraw your statement, do so simply and honestly, rather than in that snide way!

Senator Roblin: Why certainly. If I have offended Senator Stewart in any way, I withdraw that comment. I do not bow; that is left to senators on the other side, but I withdraw it unreservedly. My honourable friend is a man of principle, and I am the first to recognize it.

Senator Frith: And you don't think that any of us others are?

Senator Hastings: We are not principled?

[Senator Roblin.]

Senator Frith: What about Senator Flynn? Is he a man of principle?

Senator Flynn: Why would you doubt that?

Senator Roblin: If I have hurt his feelings, or if I have hurt anyone's feelings, I would be glad to apologize, but I do not think I would be departing from my judgment for one minute.

Senator MacEachen: Does the honourable senator not agree with me that Bill C-83 is an attempt at an unprincipled raid on the people's treasury?

Senator Murray: He wanted to get in on it, though!

Senator Roblin: I have seen one or two unprincipled raids on the people's treasury that are under consideration in the Senate at the present time; so I shall not comment on any invitations of that kind.

Senator Guay: It would be hard to do so.

Senator Roblin: You know what I am talking about.

Bill C-130 is an interesting piece of legislation. My comments on this bill have been entirely preempted. Senator Balfour gave my speech, Senator Everett gave my speech, and Senator Doyle gave my speech. I do not know what is left for me to say.

Senator Frith: Make us an offer!

Senator Roblin: With that encouragement, I think I will make you an offer. I do not look at this bill in the apocalyptic way in which my honourable friend, the Leader of the Government, does. And I really do not think that any elements of political hari-kari—

Senator Frith: Here comes the sweet talk!

Senator Roblin: —are enclosed within the bill at all. I think it is quite different from that point of view, and I think that, while the bill is not perfect, it is defensible. I think that, while the Free Trade Agreement is not perfect, it is defensible. I think it is no argument against free trade to say that the other fellow got something out of it too. It is no argument whatsoever, because it takes two to make a deal. If two parties do not see something in the arrangement, there will not be a deal.

So you trade. That is what you do when you make these agreements. You trade, and, because you have the whole panorama of economic activity to deal with, you are able to make offsets in one place to make up for losses in another place.

The Free Trade Agreement is an agreement to deal with a number of matters—some of which you make points on, some of which you lose points on, but on the whole you are better ahead. That is the most you can expect from any free trade agreement. If you expect any more, you are, I think, living in "cloud cuckoo land". You have to quite understand that a free trade agreement is not a one-way street. The other fellow has to see some good in it; we have to see some good in it; and it would be most improbable if such an agreement were to eliminate or to wipe off the slate all the problems that exist between the two nations, because they could not do it. The fact

of the matter is that "Free Trade Agreement" is probably a misnomer. If you called it a "freer trade agreement", you would be better off, because there are great swatches of economic activity and of public interest that are not covered in this Free Trade Agreement at all.

I see the agreement as a continuation. I do not see it as something new that we suddenly took out of the sky. I do not see it as a solution to all our problems. I see it as a good step forward. I see it as a continuation of over 25 years of free trade enhancement with the United States of America. It is not complete free trade. It is not a customs union. There is no merging of our economies. We are able to deal with third parties on our own terms, without reference to the Free Trade Agreement. It is not a document that enshrines policy harmonization of the kind that is worrisome to so many people in this country. It is a continuation to freer trade, and it remains conditional free trade, just like we have had in this country for the past 25 years.

Some areas have been left out. They have been discussed here. They include transportation, cultural interests, agriculture—and I suppose I will have to come back to that after a while—supply management, income stabilization, price supports and so on—in fact, so many of the great panorama of agricultural policies adopted by the nations of the world these days are not in the Free Trade Agreement. They are excluded. We have tiptoed around some of the issues involved with agriculture. Certainly we are not dealing with them all; nor can we, nor should we, until the GATT arrangements are clear.

We have not done away with investment review. In fact, it is estimated that 75 per cent of our non-financial assets are still subject to the investment review procedure. Social policies, the futures of which are so important to all of us and about which so much doubt has been raised in the minds of many, in my opinion are not included in this Free Trade Agreement. Domestic dumping and countervail laws, as discussed at great length by Senator MacEachen—and I expect to say something about them—are not in here. Regional development programs are still in place. So there are large areas of concern that are still outside the Free Trade Agreement.

New features of the agreement are, of course, the dispute-settlement mechanism and a number of services—financial, tourism and government procurement. These have now been approached, and the practice of sideswiping Canadian interests has been eliminated.

What I would like to point out to the house is that almost all of the new items in the Free Trade Agreement that arouse so much concern on the part of my honourable friends opposite are the very same issues that are before the GATT. The GATT is dealing with services; the GATT is dealing with agriculture; the GATT is dealing with energy. They want new arrangements on these items. If my honourable friends opposite support the GATT—and they say they do; they say that it is the way to go, they had better get used to talking to the GATT about these issues of services, and even dispute-settlement mechanisms and agriculture, because they will all come up. I can tell you that negotiating these issues with the 97 nations of the GATT will be no picnic, and I think you will find that the Americans are pretty good negotiating partners compared to running up against these other issues with the GATT. If you believe in the GATT and if you want the GATT to succeed, you had better get used to talking to the GATT about these issues that so concern Senator MacEachen. You will have to get used to talking about agricultural policies, the services that have been mentioned, the dispute-settlement mechanism and all these things, because they will be on the table with the GATT.

However, it is my impression that, in spite of all the sincere, well-intentioned opinions—which I respect—of people who have concerns about this agreement as going beyond the economic realm; in spite of those wide-spread public concerns, which will be expressed in the debate that will undoubtedly take place, I think most Canadians will conclude that the Free Trade Agreement is really a question of economics. I think they feel that overall the Free Trade Agreement will be positive. There are problems—some of them have been mentioned today—but, overall, the agreement will be positive. There is solid ground for that feeling; that public feeling which I believe will be manifested shortly in this country rests on solid ground, because Canadians know that for 25 years the economies of Canada and the United States have become increasingly intertwined. It is not only that tariffs have come down but a wide range of other economic activities have been intertwined, and, as a result, bilateral trade has exploded.

● (1700)

I believe yesterday Senator Doyle illustrated the picture for Ontario. There has been a phenomenal explosion of trade between Canada and the United States in the province of Ontario in the last ten years. Why? It is mostly due to the Auto Pact.

As a result of that bilateral trade, which is now the wonder of the world, *mirabilis munde*, the trade relationship between Canada and the United States, in volume, is the largest trade relationship in the world, both ways. It is the wonder of the world. It seems to me that we must reflect upon that when we deal with our economic relations with that country.

Canada, its workers and consumers, has been better off. Take the Auto Pact—everyone takes the Auto Pact, so I might as well take it too—conditional free trade in cars and trucks is a free trade agreement that is just as conditional as the one we are negotiating today. It has been the powerhouse of Ontario's prosperity. It has given Canadian autoworkers a high, if not the highest, manufacturing wage in Canada. A record of increasingly freer trade between Canada and the United States is the strongest possible evidence that we have benefited economically.

While this economic cooperation has been proceeding, Canadian social policy and Canadian cultural development—the personality of the Canadian nation—have seen an efflorescence of growth, of development and of the establishment of levels of confidence that we have never seen before in this country. Our social network, unemployment insurance, hospi-

tal insurance, medical care, regional equalization—all these great social policies came into existence and our cultural personalities became more expressive than ever before while this economic cooperation was going on.

We not only had the will to do these things to make a distinctive Canada, with the rights of the citizen recognized as they are now, but, honourable senators, we had the means to do it. The establishment of our Canadian lifestyle, our social policy, our culture and our national identity was not hurt by trade; it was helped by trade, because it made us more prosperous. I say to this house that culture and caring do not thrive on poverty: they thrive on ample means, and the trade policy that this country has followed in the last 25 years with reference to the United States has helped to give us those means to support those policies.

Free trade in cars has not made Oshawa workers any less Canadian than Winnipeg workers, but it has made them much more prosperous. I want to see that prosperity spread across this nation. Yet, contrary to that experience, which is the experience of other countries that have been in free trade groups, the cry goes up that our sovereignty is on the block. The cry goes up that the Free Trade Agreement will make Canada a colony of the United States, deprive us of our sovereignty and of our right to run our own affairs.

Free trade processes over the past 25 years have not done so. Indeed, it was precisely during that period of increasing economic cooperation that our social policies significantly diverged and deviated from the American way of doing things. Trade and prosperity have given us the means to build our own country, with our own structures, so that we do not have to follow the example of other nations with which we are closely associated and connected. Our cultural personality has been enhanced and, to make the assurance doubly sure, we all know by this time, surely, cultural and social policies are deliberately excluded from the Free Trade Agreement. They remain our own. They remain our own to develop and to expand as our people wish.

The Liberal Party today, I suggest to you, senators, personifies two contradictory but curiously reinforcing strands in the Canadian psyche. One is a feeling of inferiority—the feeling that we cannot measure up; that the challenge is too great; that the Yankees will get the better of us; and that, in a fair and equal contest, they will surely hornswoggle this innocent and rather simple Canadian. It is a feeling of inferiority. The second is a feeling of superiority. We are proud of our history and the fact that we have not had a revolution in this country. We are proud of our cultural activities, which are reaching such a flourishing state these days, and our social arrangements, which, in North America, are particularly our own—our very own ethos. We regard those as illustrative of the superiority of the Canadian way of doing things.

Yet, while these two strands, inferiority and superiority, appear to contradict each other, in fact, they feed on one another. Neither of those two sentiments, in my opinion, do us all that much credit, either as individuals or as a nation, and they lead, I suggest, to what I would call "closet anti-Americanism". I am not anti-American; I am not pro-American; but I am a Canadian. We will hold our own with these Yankee traders. We are not superior, but we are different and we cherish our differences and we will maintain our differences.

Senator MacEachen: Hear, hear!

Senator Roblin: To that end, a free trade agreement is not an obstacle; it is an opportunity. It is certainly an opportunity in my part of Canada. Our livestock producers like it. My friend tried to cast doubt on some of the emotions that wracked the breast of the agricultural community in western Canada, or, perhaps, to underline those aspects of it which give him some cause for thought. Our livestock producers like it, and they produce half of the agriculture produced in western Canada. They see the fact that the non-tariff barriers, which have been so irritating and so exasperating, will now be struck down and that the beef and pork trade can proceed without the harassment from Americans that we have had in the past.

Some of our mining people like it. The uranium miners like it very much. The Canadian Wheat Board has been confirmed, in spite of some fears to the contrary. The American wheat farmers are furious about that, and I suppose they have every right to be so, because, when our high protein wheat can get into their market when the subsidies are equal—and heaven knows when that will happen—certainly a lot of their millers will find it appealing. I can understand why they are concerned.

Canadian manufacturers that upgrade products to a higher level of manufacture are happy about this agreement, because the burden of modern tariffs is not on natural products; they mostly flow freely; the tariff burden is on manufactured goods, and the more highly manufactured the goods are the higher the tariff. Those will come down and our western manufacturers, including metal refiners, will be glad to see the end of those high tariffs. The manufactured goods in the west will have some opportunity of flowing to the United States in the way the Auto Pact has in Ontario.

Honourable senators, all is not rosy; adjustments are called for in the food producing industry, to which my honourable friend alluded. I was interested in his remark about Mr. McLean, because I heard Mr. McLean and I do not want to say this in any unkind way, because he cannot get at me.

Senator Frith: Well, don't then.

Senator Roblin: He can contradict me.

The Hon. the Acting Speaker: Honourable senators, I am sorry to interrupt Senator Roblin, but I would point out that we have Royal Assent scheduled for 5.30 this afternoon.

Senator Roblin: I will not hold up Royal Assent. I move that I be allowed to continue my discussion of this matter on another occasion.

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

Hon. Senators: Agreed.

On motion of Senator Roblin, debate adjourned.

The Senate adjourned during pleasure.

At 5.30 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy 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 Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act (*Bill C-61, Chapter 51, 1988*)

An Act to amend the Indian Act (death rules) (*Bill C-150, Chapter 52, 1988*)

An Act respecting the registration of lobbyists (*Bill C-82, Chapter 53, 1988*)

An Act to amend the National Capital Act (*Bill C-153, Chapter 54, 1988*)

An Act to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts (*Bill C-139, Chapter 55, 1988*)

An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof (*Bill C-110, Chapter 56, 1988*)

An Act to amend the Indian Act (minors' funds and surviving spouse's preferential share) (*Bill C-123, Chapter 57, 1988*)

An Act to establish the Canadian Centre on Substance Abuse (*Bill C-143, Chapter 58, 1988*)

An Act to amend the Blue Water Bridge Authority Act (*Bill C-210, Chapter 59, 1988*)

An Act to amend the Criminal Code (instruments and literature for illicit drug use) (*Bill C-264, Chapter 60, 1988*)

The House of Commons withdrew.

The Honourable the Deputy 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, September 14, 1988

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

Prayers.

TAX COURT OF CANADA ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Ian Sinclair, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Wednesday, September 14, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

THIRTY-FIRST REPORT

Your Committee, to which was referred the Bill C-146, An Act to amend the Tax Court of Canada Act and other Acts in consequence thereof, has, in obedience to the Order of Reference of Thursday, September 8, 1988, examined the said Bill and has agreed to report the same without amendment.

Respectfully submitted,

IAN SINCLAIR
Chairman

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

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

PATENT ACT

BILL TO AMEND—INTERIM REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Ian Sinclair: Honourable senators, with leave of the Senate, I move:

That the Standing Senate Committee on Banking, Trade and Commerce, to which was referred Bill S-15, intituled: "An Act to amend the Patent Act", have leave to make an interim report thereon now.

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

Hon. Senators: Agreed.

Senator Sinclair: Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce has the honour to present its thirty-second report respecting Bill S-15, An Act to amend the Patent Act.

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

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see Appendix "A", p. 4427.*)

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-FOURTH REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Roméo LeBlanc: Honourable senators, I have the honour to present the sixty-fourth report of the Standing Committee on Internal Economy, Budgets and Administration respecting the allegations against Senator Argue.

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

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed?

Hon. Senators: Agreed.

(*For text of report, see Appendix "B", p. 4431.*)

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

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

SOVIET UNION

RELIGIOUS FREEDOM—NOTICE OF MOTION

Hon. Stanley Haidasz: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*h*), I move:

That,

Whereas 1988 marks the Millennium of Christianity in Kievan Rus, providing an occasion for all men and women of good will to celebrate the great spiritual heritage carried by the peoples of the Soviet Union—Catholic, Orthodox, Protestant, Jewish, Muslim, Buddhist;

And whereas religious freedom has been acknowledged as a fundamental human right in such landmark international conventions as the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights, the Convention Against Discrimination in Education, the Helsinki Final Act, the United Nations Declaration Against All Forms of Religious Intolerance—agreements to which the U.S.S.R. government has solemnly pledged its adherence;

The Senate of Canada appeal to General Secretary Mikhail Sergeyevich Gorbachev to honour the U.S.S.R. government's commitments to these aforesaid international agreements, to declare a general amnesty for all religious prisoners of conscience, and to legalize the Ukrainian Catholic Church, the Ukrainian Autocephalous Orthodox Church, the Ukrainian Orthodox Church, and all other religious groups, assuring thereby all the peoples of the U.S.S.R. the right of religious freedom and practice.

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

Hon. Daniel A. Lang: No.

QUESTION PERIOD

FOREIGN AFFAIRS

ALLEGED USE OF CHEMICAL WEAPONS BY IRAQ AGAINST KURDS—GOVERNMENT ACTION

Hon. Jerahmiel S. Grafstein: Honourable senators, on September 8 I drew the attention of the Leader of the Government in the Senate to an appeal by Amnesty International to the United Nations, wherein they deplored the systematic and deliberate policy of liquidating Kurds by utilizing chemical weapons, which was contrary to the Geneva Protocol of 1925.

Apparently, since that time the United States Congress has taken steps to invoke embargoes against the Government of Iraq. Other governments, such as Britain, have issued strong statements deploring these acts taken by the Government of Iraq. It is my understanding that the Government of Iraq is a signatory to the Geneva Convention of 1925. In these circumstances, I should like to know whether the Government of Canada has taken any steps whatsoever to mobilize the international community against this obscene policy.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the day after my friend asked his question the Iraqi Ambassador was informed, in the strongest possible terms, of our government's profound concern over reports of renewed use of chemical weapons and the overall treatment of Kurds by the Iraqi government.

My colleague Mr. Clark, the Secretary of State for External Affairs, informs me that these reports are being investigated on an urgent basis. Mr. Clark states further that Iraq risks losing completely the support and approval it had earned for its part in ending hostilities with Iran.

Canada has repeatedly condemned the use of chemical weapons in the Iraq-Iran war and we have publicly deplored Iraq's use of these weapons. These reports of further use of chemical weapons underline, in our view, the importance of concluding negotiations at the Geneva Conference on Disarmament for a comprehensive and verifiable global chemical weapons ban, including destruction of existing stocks and a prohibition of future weapons production.

Canada reiterates its support for UN Security Council Resolution 620 of August 26, which requested the Secretary General to investigate the use of chemical weapons contrary to the 1925 Geneva Protocol.

Senator Grafstein: Does the Government of Canada intend to take steps similar to those taken by the Senate of the United States to invoke sanctions against the Government of Iraq?

Senator Murray: Honourable senators, I shall take that question as notice and ask for a reply from the Right Honourable the Secretary of State for External Affairs.

FISHERIES

PROVISION OF FISH TO VICTIMS OF NATURAL DISASTERS—GOVERNMENT ASSISTANCE

Hon. M. Lorne Bonnell: Honourable senators, each day we read in the local newspapers of the catastrophe in Bangladesh. Today we hear about the terrible hurricane in Jamaica. We hear each day about the starving people of Ethiopia and Africa. At the same time as these disasters are happening, Canada is providing financial assistance to those countries in which people are starving to death or in which people are dealing with the aftermath of a natural disaster.

• (1410)

I am thinking of the 25 million people in Bangladesh—almost the population of Canada—who now have to live in homes surrounded by water. One hundred thousand people—the population of Prince Edward Island—are now homeless, and a thousand others have starved to death.

In Atlantic Canada the fishermen are having a difficult time trying to survive, with herring priced at eight cents a pound. I am told that, of the herring population, half are male and half female, and that it is only the females that are bought, for their roe, by Japan. The males are either processed into fish meal or used as fertilizer.

Would the Government of Canada consider paying a bonus of four cents a pound to the fishermen so that that fish could be pickled, filleted, or whatever, and sent to those countries in which people are starving to death? That would eliminate this tremendous wastage while, at the same time, increasing employment on Prince Edward Island and helping these unfortunate people in the world.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my colleague the Honourable Monique Landry, Minister for External Relations, has been in touch with the Bangladesh High Commission here in Ottawa and has announced, on behalf of the government, various forms of assistance to Bangladesh because of the terrible circumstances in which the people of that country find themselves. We are also giving a positive response to the appeals from the International Red Cross.

As to the particular suggestion of the honourable senator, I will convey that to my colleague; if she has a comment to make on it, or a further report, I shall convey that to the Senate.

JAMAICA

HURRICANE RELIEF—GOVERNMENT ASSISTANCE

Hon. Hartland de M. Molson: Honourable senators, my question is for the Leader of the Government in the Senate. As I think we all know, Hurricane Gilbert, which passed over the Caribbean and is now in the Gulf of Mexico, has been rated as the worst hurricane in history. It has passed over the Island of Jamaica. Today all communications are out, although there may be some slight ability to transmit a telex to that island. Generally speaking, though, all telephone lines and power lines are down and roads are blocked. The situation is as desperate for that country as any country has ever experienced.

I wonder if the government, in the time it has now had—a couple of days—has actually prepared any plan to get some assistance to that island. The people of Jamaica need assistance for every want a great disaster like this can create. There is very little potable clean water, there is no electricity, there are no communications, and the roadways are blocked. A great deal of planning and a great deal of assistance are required to make any impact on a catastrophe of this magnitude.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I appreciate the point raised by Senator Molson. It is correct to say that communications have been effectively interrupted between Jamaica and the rest of the world. Indeed, the last report I received was that we had not yet re-established our communications with our High Commission in Jamaica.

I can tell the honourable senator that a Canadian Armed Forces aircraft is leaving for Jamaica tomorrow with telecommunications equipment and other emergency supplies. That will happen tomorrow. I have some further information in French.

[Senator Bonnell.]

[*Translation*]

The Pan-American Health Organization and the American Government have already sent teams to measure the extent of the assistance required.

[*English*]

I will read the note that was provided to me by my colleague, the Secretary of State for External Affairs. He confirms that our direct communications with our own High Commission have not yet been re-established.

[*Translation*]

Therefore, we do not yet have details on the extent and nature of the disaster. However, we have found out indirectly that the hurricane caused very serious damage and that considerable assistance will be required to offset the immediate and long-term impact of the hurricane on Jamaica's economy.

The Pan-American Health Organization and the American Government have already sent teams to evaluate the extent of the assistance required.

The Canadian Government and people have already let the Jamaican Government know that they are ready to come to Jamaica's assistance together with other interested countries and institutions. Canada intends to play an active role in the rehabilitation and reconstruction efforts that are now beginning. A Canadian Armed Forces plane will leave for Jamaica tomorrow with telecommunications and emergency relief equipment on board.

[*English*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to two questions. I ask that they be printed as part of today's proceedings.

TRANSPORT

NORTHUMBERLAND STRAIT—PUBLIC HEARINGS ON IMPACT ON FISHERIES OF PROPOSED FIXED CROSSING—ENVIRONMENTAL STUDY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in reply to a question raised in the Senate on September 7 and 13, 1988, by the Honourable John B. Stewart, regarding Transport—Northumberland Strait—Public Hearings on Impact on Fisheries of Proposed Fixed Crossing—Environmental Study.

(*The answer follows:*)

The decision making process for the Fixed Link has been published in all the major Atlantic newspapers. The process consists of receiving proposals for a Fixed Link Crossing from several private sector organizations. These proposals will be reviewed and any environmentally dangerous proposals will be thrown out. The sponsors of each valid proposal will then have to submit a complete environmental study which will be reviewed by the Provincial

and the Federal Governments including some eight environmental regulatory agencies.

By the middle of October, public information sessions will be opened for all interested parties to review both the project and the environmental study related to that project.

The Minister of Public Works will call for public environmental hearings if there is a significant environmental impact as decided by the Department of Environment and their experts both provincially and federally.

TRANSPORT

NORTHUMBERLAND STRAIT—PUBLIC HEARINGS ON IMPACT ON FISHERIES OF PROPOSED FIXED CROSSING—ENVIRONMENTAL STUDY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I also have the response to a question on the same subject raised in the Senate on September 13, 1988, by the Honourable M. Lorne Bonnell.

(*The answer follows:*)

A reference to the Minister of the Environment will be considered after the environmental evaluations have been made public and if significant environmental impact is expected.

HERITAGE RAILWAY STATION PROTECTION BILL

REFERRED BACK TO COMMITTEE

On the Order:

Third reading of the Bill C-205, An Act to protect heritage railway stations.—(*Honourable Senator Turner*).

Hon. Charles Turner: Honourable senators, when this bill was before the Standing Senate Committee on Transport and Communications, I was not aware that there was a list of further witnesses scheduled for next Tuesday. Because these witnesses have deep financial concerns about safety, I suggest that the bill be referred back to that committee for further study. Consequently, I move—

The Hon. the Speaker *pro tempore:* Senator Turner, are you moving third reading?

Senator Turner: I move, seconded by the Honourable Senator Sinclair, that Bill C-205 be referred back to committee.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Doody, seconded by Honourable Senator Murray, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, subject to correction, I think someone should move third reading, and then a motion should be put that it be not now read the third time but that it be referred back to the committee.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, for some reason this order stands in my name on the scroll. In actual fact, Senator Turner was the mover of this bill. It was he who proposed it for second reading, and presumably it is he who will move it for third reading when and if he so desires.

It is a private member's bill. It came from the other place in the name of Mr. Gordon Taylor. Senator Turner undertook to sponsor it in this place, and the bill stands in his name. I might say at the same time that there is some urgency, according to requests from the Heritage Canada group, which is most anxious that the railway stations of Canada be declared heritage property. Of course, honourable senators are familiar with that. Whether they wish to refer it back to the committee is entirely up to them.

• (1420)

Senator Frith: Honourable senators, I understand that the problem is exactly as has been described by Senator Doody. In addition, some groups opposed to the bill—

Senator Doody: The railways.

Senator Frith: Yes, the railways—were not heard by the committee. Our committee acknowledges that it did not hear the position of those opposed to this bill. There is some urgency to this matter, however. If I may, I will suggest that Senator Turner move that the bill be not now read the third time but that it be referred back to the committee. We can make that kind of instruction. In that way the other side will be given an opportunity to be heard. Perhaps we could set a date by which the bill should come back to the Senate so that we will not unduly hold it up.

Hon. Ian Sinclair: Honourable senators, I think one fact has been overlooked here, and that is that the clerk of the committee gave undertakings to certain people that they would be allowed to appear before the committee next week. Some of those people left the city with that understanding.

When the matter was before the Transport Committee, the only person giving evidence was the sponsor of the bill, which was, I think, a most difficult situation. I think it is unfortunate that this problem was not brought to the attention of the members of the committee when they were considering the motion to report the bill without amendment. Under those circumstances, in my view, it would be only right to allow these other witnesses to be heard. They will have some knowledge about safety matters on railways. There are potential problems with stations that may be designated heritage railway stations, because decrepit conditions may have arisen over time. Think of what such conditions might mean to a high-speed train passing through. I believe such evidence would be of interest to the committee. I think these are the sorts of people who could explain potential problems to honourable senators.

Senator Flynn: But we have reached the stage of third reading.

Senator Doody: Honourable senators, I think that for the record it should be said—and I know they have not had an opportunity to be heard in the Senate—that these people have had an opportunity to be heard on this matter before a committee of the other place. I am not suggesting that that should influence our decision here in the Senate. I simply want to make it clear that the railways have been heard on this matter in the other place, and in saying this I am not suggesting that they be denied their right to be heard in the Senate.

Senator Sinclair: I think that if senators look at the record they will find that the representatives of the short lines were not heard in the committee of the other place. They were not even contacted.

Senator Doody: Who were not heard?

Senator Sinclair: Representatives of the short lines.

Senator Doody: Oh, the short lines. I am sorry; the terminology escaped me for a moment in the course of the dialogue between Senators Sinclair and Turner.

Senator Sinclair: It is a well-known term. I am sure the honourable senator understands that there are long lines and short lines.

Senator Doody: There is no one more aware of just how short lines can get, unless he comes from Newfoundland.

The Hon. the Speaker *pro tempore:* Has Senator Doody moved the third reading of the bill?

Senator Doody: It is Senator Turner's bill, Your Honour; it has nothing to do with me.

The Hon. the Speaker *pro tempore:* I shall first put the motion before the Senate.

It is moved by the Honourable Senator Turner, seconded by the Honourable Senator Stewart, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Senator Frith: He did not make that motion.

Hon. Sidney L. Buckwold: Honourable senators, I should like to speak to the motion.

Senator Turner: Honourable senators, I move, seconded by Senator Sinclair:

> That Bill C-205, to protect heritage railway stations, be not now read the third time but that it be referred back to the Standing Senate Committee on Transport and Communications for further study.

Senator Buckwold: Honourable senators, I rise to reject the motion that has been made, and I do so in the interests of the Heritage Canada organization and the tens of thousands of people who have a very real interest in the entire question of preserving railway property, especially railway stations.

I recognize that the railroad—namely, the Canadian Pacific Railway—did not appear before a Senate committee. As Senator Doody has pointed out, the railway companies did appear before the House of Commons committee. The CN had no objection; VIA Canada had no objection; the CPR objected. They objected on the basis that the bill was redundant, that it was covered by the Railway Act. From what I gather, that is not correct, because the Canadian Transport Commission will not take a position on heritage railway property on the basis of the Railway Act.

Heritage Canada, for many years, has carried out an intensive lobby of the government to attempt to preserve one of Canada's historic features, namely, Canadian railway properties. There has been an opportunity on many occasions for the views of the railways to be presented. I would not object to the proposal that this bill go back to committee if we were not likely on the verge of a dissolution of Parliament. If we were in the middle of a session and there were another few days, that would be one thing. However—and I am seeing affirmative nods by members on the other side and smiles on their faces—it is quite possible that we will not be here to listen to the report of the committee, in which case this absolutely necessary legislation will die on the order paper.

I am worried about this, as are the people from Heritage Canada and the people who would like to protect that kind of property.

As far as I am concerned, the railways have made their case. They have been given every opportunity in that regard. I do not see that anything will be gained, and we run the risk of having this important legislation denied to the people of Canada, who are so interested in it. I have to say that I personally do not support the motion of the chairman of the committee.

Senator Frith: Honourable senators, without getting into the issues between the railway companies and the Heritage Canada people, there are clearly three principles involved in this motion, as has been indicated by Senator Doody and Senator Buckwold. First, should we, as a Senate, ever refuse an opportunity for all sides of a question to be heard? Secondly, should we allow that to happen if there is a risk of an election, and make that an exception to what is our normal rule, which is to give all sides an opportunity to be heard? Thirdly, in considering that principle, should we take into account the fact that a person wanting to make a submission to a Senate committee has already been heard in the other place? I agree with Senator Doody completely on that. One, it is relevant; two, it should not be determinative.

Senator Roblin: Very statesmanlike.

The Hon. the Speaker *pro tempore:* I shall put the motion in amendment made by Senator Turner.

In amendment to the main motion, it is moved by the Honourable Senator Turner, seconded by the Honourable Senator Sinclair, that the bill be not now read the third time but that it be referred back to the Standing Senate Committee on Transport and Communications for further study.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore:* Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore:* Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore:* In my opinion, the "yeas" have it.

• (1430)

Senator Doody: Do they have to report back before an election is called?

Senator Frith: If the government is making an offer that we add a condition—

Senator Flynn: It is not a government bill!

Senator Frith: —that the committee has to report before the election call, then the government, in order to complete that undertaking, would have to tell us the date. In that case, we should add that condition.

Senator Steuart: Cowering innocents!

Motion in amendment agreed to, on division, and bill referred back to the Standing Senate Committee on Transport and Communications.

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray P.C., seconded by the Honourable Senator Roblin, P.C., for the second reading of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America.—(*Honourable Senator Roblin, P.C.*).

Hon. Duff Roblin: Honourable senators, I appreciate the courtesy extended to me to allow me to continue my remarks on this important subject, as they were interrupted yesterday by the need to proceed with the ceremony of Royal Assent.

I have one or two points this afternoon. First, I want to express some real appreciation to members opposite for having provided the special committee that is promoting free trade with a splendid joint chairman in the form of the Honourable Gerald Regan, who was the last Minister of International Trade in the previous administration. His views are welcome to us, because we know that he approves of what is going on. To the extent that my honourable friends opposite feel able to—

Senator Steuart: He did not do that much when he was a minister, did he?

Senator Roblin: —be responsible for him, I thank them.

Senator Murray: He is a protégé of Senator MacEachen's.

Senator Roblin: That reminds me about something concerning Senator MacEachen. I had intended to start off with a few flowery—well, not flowery, but sincere words of congratulation—

An Hon. Senator: Make it flowery!

Senator Roblin: —flowery and sincere.

Senator Frith: It can be both, yes.

Senator Roblin: Yes, it can. I wish sincerely to congratulate Senator MacEachen for the splendid speech that he gave us yesterday—I by no means minimize that. However, I am rather disappointed that the Puppet-Master of the Senate will not be here this afternoon to hear what else I have to say, because I will be deprived of the stimulation of watching his reaction to some of the points I make, which I hope will go some way to convince honourable senators that he was not altogether right—

Senator Frith: I will try to react for him.

Senator Roblin: —in the various statements he made with respect to the Free Trade Agreement.

When the Puppet-Master returns, I presume we will have an opportunity to engage in further dialogue on some of these matters, particularly if he attends the committee which I understand my friends opposite have deemed to agree to with respect to this bill.

Yesterday, when I was talking on this subject, I had reached the stage where I was discussing the advantages some of the people in western Canada see in this bill. I will not repeat them; nor will I itemize everything that one could possibly say about them. But there is one category of persons that deserves to be mentioned, and that is the consumers.

I have noticed in this debate, particularly in the speech of my honourable friend, the Leader of the Opposition, no reference to the consumer; or, if there was, it was a reference that escaped my notice. It seems to me that in western Canada the consumers are perhaps among the big winners in this new Free Trade Agreement.

In the last many years the tariff situation in this country has cost the people of western Canada billions of dollars. It has been a serious obstacle to economic growth and prosperity in my part of the world. It is no small thing that the consumers of my part of the country, as well as from the rest of Canada, will be relieved of that enormous burden of tariff expenses, which did nothing but add to the cost of living in that part of the country.

Close to one-half of the average consumer's purchases in western Canada will be affected by the Free Trade Agreement, and they will be affected for good. I have a strong suspicion that consumers of Manitoba will not complain when they see prices starting to move down closer to the prices that are paid in North Dakota and in neighbouring American states. They are going to be equally pleased, I think, when they see that the variety of merchandise they can buy is improving. Therefore, the comparison will come a little closer in Win-

nipeg, Manitoba, than it does now with what is available in the stores of the American cities immediately adjacent to my province.

I am well aware, honourable senators, that all is not sweetness and light. Canadians will still have to worry about provincial sales taxes and things like that, unless they happen to be citizens of Alberta. However, the average western family will be better off under free trade by hundreds of dollars per year. The elimination of tariffs alone will be advantageous, to say nothing of the other benefits we foresee arising from free trade to the benefit of our economy, and which I mentioned yesterday.

Honourable senators, the saving to the consumers of my province is not insignificant. As tariffs go down, their real incomes will increase by 2 to 3 per cent over the period. This means that hundreds of dollars of increased spending power and increased real income will be available for the families that dwell on the western plains.

One of my friends over there is shaking his head, but I am willing to place a bet that, when this Free Trade Agreement is in action, he will see that there are real benefits for those people.

Honourable senators, after the citizens of western Canada have discounted the Liberal and also the NDP hobgoblins I referred to yesterday and the political scare tactics that are going to be the stuff and substance of this coming election, and after they have listened to all this talk about social disintegration, cultural shock, creeping colonialism and national decay, I think, like the sensible folk they are, they will see this Free Trade Agreement for what it really is: a continuation of economic policies that have proved helpful to us over the last many years and a positive advantage to a confident nation in building a more Canadian society on the basis of better economic growth and rising efficiency.

I want to deal now, and probably throughout the remainder of my speech, with some of the statements made by the Puppet-Master yesterday, because I do not believe they should go unquestioned. One of the first things he said, whilst introducing his remarks, was that we should not be alarmed by this story that protectionism in the United States was still alive and vigorous and would like to eat us up. He said, and I would like to use his exact words—

> . . . the obsolete and discredited fear—

That was his phrase—

> . . . the obsolete and discredited fear of American protectionist tendencies . . .

Also, in order to make his case, he reported upon a visit made to Washington some time ago by a committee, of which both he and I were members, during which this subject came up. He quoted quite correctly from a statement by a man called Mr. Katz that protectionism was not a national issue and that it was a mistake to portray the Free Trade Agreement as a defence against protectionism. However, the same gentleman, Mr. Katz, had another observation to make. Mr. Katz said that protectionism in his country was regional and sectoral—

[Senator Roblin.]

and don't we know that to be the truth! It may not be national policy but it is regional and sectoral policy. Just listen to the statements of Senator Baucus in connection with lumber and shingles in the United States; just listen to the statements of Representative Dingell when he speaks about the Auto Pact in Ontario; just listen to the statements of Representative Olympia Snowe from the State of Maine about the introduction of New Brunswick potatoes into her part of the world. If you don't think protectionism is still a powerful force in the American body politic, you indeed are much mistaken.

Another member of the distinguished group of men who spoke to our committee was a Mr. Horlick. Mr. Horlick was also quoted by the honourable Puppet-Master of the Senate. He said that larger protectionist measures would not be passed by the United States Senate. My friends, it was only weeks after that that the United States Senate did exactly that, twice! First, they passed the Omnibus Trade Bill, which was not as bad as it might have been but was certainly of no help to us. The Omnibus Trade Bill is certainly a larger protectionist measure, and I shall say a word about the meaning of the bill with respect to protectionism in a short time.

Then we saw just the other day a bill passed by Congress, dealing with high protectionism on clothing, textiles and shoes, that will certainly affect us. We are hoping, I suppose, that the President will veto it. However, to say that the United States will not be engaged in larger protectionist measures is certainly a statement that cannot stand unchallenged. No sooner was it made than we saw these events unfold.

• (1440)

Honourable senators, others have also spoken on this subject. Mr. Bergsten is one. I must frankly admit that he is also on the side of those who say, "Don't be scared of protectionism." A singular event happened after those statements were made that should be brought to the attention of the Senate, because the Honourable the Leader of the Opposition did not give you everything that was said on this particular subject. After this point was discussed, and those who were at the committee meetings will be able to bear testimony to what I am about to say—indeed, it is on the record—the key question was asked: What happens to protectionism with respect to Canada if we do not pass the Free Trade Agreement? That is the key question: What are we going to do if we renege on this deal? I must say that we did not get comforting answers. The report says that all the people who spoke on this particular topic agreed that there would be substantial difficulties. They spoke of serious, adverse, bilateral consequences and of no return to the status quo ante.

Honourable senators will have to add those remarks to the ones that were quoted yesterday by the Leader of the Opposition if they are to form any impression of what protectionism in the United States might mean for Canada in the future. New protectionist pressures can be expected. Canada will have fewer friends, and the special relationship, if that is a factor, will certainly be one that will be hard to find. It was not only the academics who made such statements. I am surprised at my honourable friend, because yesterday he was quite harsh

on the use of academics to support any of the points others were making, but he did not hesitate to use them himself if he felt that it added to his case. I do not complain about that; I merely point it out as being a bit of a curiosity. These people who spoke to us were not the only ones who mentioned what would happen if we had problems with the free trade bill.

Representative Sam Gibbons had something to say. I do not know whether all members of this house know Sam Gibbons, but a number do.

Senator Doody: I do.

Senator Roblin: They know that he is not an alarmist, that he does not use threats, that blackmail is as far from his mind as anything could be, that he is a rational man in most respects—not in all, but a rational man—and that he is certainly a friend of Canada. He warned us in a very careful, low-key, non-threatening manner that the United States congressional reaction to a rejection of the Free Trade Agreement would be cause for concern. I shall not say anything about Congressman John LaFalce who spoke in New York. He is a friend of ours, but I think he came on a little too strong, so I do not care to quote him in this connection.

I think we have to recognize the fact that protectionism is not dead in the United States. I suggest that honourable senators read the editorial of the *New York Times*, August 9, when the Omnibus Trade Bill was passed. It said that the bill sends a warning, that it threatens retaliation where United States deems unfair trade practices are taking place. The *New York Times* is a pretty balanced journal. The point they made was that, while Mr. Gephardt and his amendment were defeated, the underlying protectionist emotions of the United States survive. It seems to me that we have to take those warnings into account when we consider whether or not protectionism is a factor that should be considered, and when the Leader of the Opposition says that it is obsolete and discredited. By no means. It is there, and I tell my honourable friend that, if we have a decline in the economic life of North America, one will see a revival of the protectionist spirit in the United States, and it will not make us very happy. Keep those thoughts in mind, because under the free trade bill, even considering some of these new laws that we have been talking about—and I think that some of them violate the FTA—we have, if we pass the bill, a measure of protection against such measures that we did not have before. We have the binational dispute-settlement mechanism.

I am not one who claims that the dispute-settlement mechanism achieves everything that I would wish for, but I can tell this house that it is a great deal better than the present situation and that it is a great deal better than the kind of situation in which the Max Baucuses of this world can distort the policy of the United States with respect to protectionism on shingles and shakes, as we have seen. It is a procedure in which there is a binational body on which we have an equal voice. Now, mind you, we have to deal with American law and we have to deal with Canadian law, depending on where the problem lies, but both parties have an equal voice. This little country, with one-tenth of the population and the economy of the United States, has an equal voice with them in the deliberations of that committee. To say, as the Leader of the Opposition has said, that they will be motivated by crass political manipulation on the part of ministers when such matters come up for consideration is a sentiment that, frankly, I do not share. I look at other bodies of a similar nature, such as the International Joint Commission, which is operated on the principle of equal access to it. I have found that body to be a model that gives some hope that this new organization will indeed be a good one.

Senator Stewart laughs at all this, and I am surprised that he does, because I think he is a man of some discerning judgment. I regret that he does not feel that the binational adjudication system will do any good. We know with respect to countervail and dumping, which are the important areas of dispute, that the findings of this body are binding. I believe that this procedure eliminates the possibility of irrational regional and local pressures, such as the Baucus pressure being brought to bear, as we have seen done so nakedly in the past. Such action will not be found to the same degree whatsoever under the binational dispute-settlement mechanism. So I do not join my honourable friend opposite in his down-playing of the role of protectionism in the future economic life of this country, and I do not join my honourable friend when he belittles the dispute-settlement mechanism.

It is the finest dispute-settlement mechanism in the world today, and no one who understands this matter and will speak on it will deny that this is so. This measure is far better than any comparable measures in the GATT. It is far better than any binational adjudication system in the world today, and we owe it to ourselves to adopt it, to try it, and to make it work.

Some Hon. Senators: Hear, hear!

Senator Roblin: I will not join those who deprecate it and say, "Because we did not get everything we would have liked, we are going to reject what is good for the lack of what is perfect." I will not join them at all.

I say to this house that the dispute-settlement mechanism does introduce an element of the rule of law that is not there now, and that goes a long way towards eliminating the political influence in the determination of these decisions in the United States that we have seen so often in the past. It gives us some hope that we will have a good, and better, deal when dealing with the problems we have with our friends in the United States. So I say to my honourable friend in his absence—and I regret his absence—that he is not right about protectionism in the United States, that, while it does not appear to be so strong today, it is not dead. It will come to life and if, when it comes to life, we have no free trade agreement and no dispute-settlement mechanism, we will rue the day, because the odds will be against us. We will not have anything like the even break that I expect we will achieve in the situation as it stands at the present.

My honourable friend went on to talk about agriculture. I want to spend a little time on that subject, too. He said, and I think it was a wise remark, that it is a good thing to take a

look at the work that the Foreign Affairs Committee has done on the whole of this free trade system. For the sake of the record, I want to tell you in brief outline what the committee has done.

The members of this committee have been meeting regularly for nine months. They have had 32 public sessions and a number of private sessions. They have had 13 meetings on the dispute-settlement mechanism. They have had 8 meetings with 18 witnesses on energy. They have had 6 sessions and heard 13 witnesses on agriculture. They had a five-session introductory period before we started. They had 2 sessions on the GATT and other bilateral organizations; and they had 2 sessions on the constitutional jurisdiction as between the Government of Canada and the provinces of this nation.

● (1450)

What was done—and I want to underline this—was not a rehash of what the Senate committee did in 1982. Nothing like it. We did not get into those questions that were settled in that document to any great extent. What we did do was focus on the new areas that had been so much discussed in this whole debate. Those are the areas on which we spent most of our time and in which we achieved, I think, a great deal in eliciting opinion and information on all these matters.

Now the Leader of the Opposition describes the goings on in that committee as "prodigious". That is his word, and I subscribe to it. It was prodigious. I subscribe to some of the things he said in another speech on Bill C-130, when we were moving for the pre-study that was not granted. He made the case that the work that was being done on the agreement itself was just as good as the work done on that bill. He made that case very strongly. I have quotations here, but I will spare you the quotations because you have heard them before.

But this leads to one point: we are now going to have another committee. Does he now propose to re-examine and rediscover the wheel? Are we going to look again at all these matters and proceed with a nine-month study in the Senate, with countless meetings to hear the testimony which I hold in my hand here? Is that all to be redone? I certainly hope not. However, if his aim is just to keep the thing afloat as long as possible, there is no reason why we cannot examine every jot and tittle of what was said and done before. I hope I am not unduly suspicious when I say that that might very well be in his mind.

Going on from there, we have this emphasis on new initiatives and something else. In selecting the witnesses—not all of them, since some of them were invited and some of them were voluntary—there was a plan; and that plan was to have representation from all points of view. The witnesses were not selected because they supported the government's point of view, as you can tell by reading some of the evidence; they were selected in order to give the committee a broad view from every conceivable opinion and angle, and that was achieved. I think that is something that certainly cannot be overlooked. Therefore, when you make a selective reference to certain witnesses who appeared and whose views you may have liked—and I have to admit that that is a very human failing, and I am not able to say that I have never done that myself or that I will never do it again—you have to offer a warning to your hearers that that is the case.

For example, we heard a lot about Mr. Fleischmann of the Grocery Products Manufacturers' Association. He had some things to say that the Leader of the Opposition found agreeable. One of the things he had to say, which was not mentioned, was that his organization did not come out in favour of or against the Free Trade Agreement. Why would that be so? The answer, of course, is clearly obvious: Because the Free Trade Agreement may be objectionable to some of their members, but it is very satisfactory to a great many others, and, while they had no objection as a whole to appearing before the committee to allow the objectors to have their say, they certainly were not going to sink the deal and deprive all the others who like it of the advantages it brings.

Senator Stewart: May I ask the honourable senator a question on the point about which he is now speaking?

Senator Roblin: I would prefer that Senator Stewart ask the question afterwards. I have quite a lot to say and I shall probably outwear his patience. However, if he asks me later, I will do my best to answer.

I give my view. I cannot prove that that is the case, because I have not heard all of the people in the organization, but it seems logical to me that, when they say that they appear neither to support nor to condemn, there is a reason for it. I suspect the reason is that a good many of their people find that there are things in that agreement which they really like.

I shall now go on to deal with some of the things that were said by the grocery manufacturing people who feel badly done by by this treaty and to point out to the house that their problems have not gone entirely unnoticed. Indeed, with respect to people who use eggs, chickens and commodities like that, there are special duty-free quantities allowed into the country, calculated in such a manner as not to upset the supply marketing boards but calculated to supply some good assistance to the people who use those products.

There was a deal on sugar that would enable our manufacturers of products that contain sugar to have a considerably better deal in the United States than they have at the present time. There was a change in the price of domestic wheat that was designed to help the grocery manufacturers in Canada by reducing the price of that important element of their raw materials. The reduction in the price of wheat was certainly considerable.

The real target, I suspect, of much of the information that came to us from the grocery manufacturers and others was not really the Free Trade Agreement, although they had lots to say about it; the real target was the marketing board system, and they had a lot to say about that. They do not like it. They would like it changed and they want pressure brought on the people who use the marketing boards to bring their prices down. That is their policy. Good luck to them. I do not think they are going to have any chance of doing anything like that.

I want to go on to another witness who appeared before us in the same vein, who received, I think, approval from the Leader of the Opposition—a gentleman called Archie McLean. Mr. McLean is the representative of McCain Foods of New Brunswick. I have to tell you that he was a very articulate and persuasive witness. In fact, I found him a little bit overwhelming. He is opposed to the Free Trade Agreement, root and branch, and he had some reasons for that. He said, "I'm a potato man." I did not say a "couch potato". He is a potato man and he is a lively one! McCain Foods has a plant in Manitoba that uses a lot of our potatoes, so you can be sure I paid some attention to what that gentleman had to say. He told us of some of the problems in the potato industry in the North American continent. He said, "To your Keystone producers, Roblin, in Manitoba, we have to pay $124.75 per short tonne for the potatoes we buy; whereas in South Dakota, just over the boundary, we can buy them for $86." It is a 20 per cent premium to buy in Canada.

Senator Frith: Are those Canadian funds in both cases?

Senator Roblin: Yes. Mr. McLean very kindly translated the figures into Canadian funds.

In terms of electrical power, the figures were five kilowatts in Canada and three kilowatts in the United States. The yield of potatoes per acre is six to seven tonnes in Manitoba and 25 tonnes in the state of Washington. Bear in mind, honourable senators, that these are enormous handicaps for anyone in the potato business to overcome, and they exist now, before free trade or anything like it ever approaches the statute books of this country.

After free trade, where will they stand? They will stand with the same difficulties I have just recited to you, plus one more: they will also lose their protection on the Canadian tariff. What does that amount to? It is a 10 per cent tariff that is being reduced over ten years; so the added burden from Mr. McLean's point of view in terms of the Free Trade Agreement is 1 per cent on those items with respect to tariff reduction.

Honourable senators, there is something curious here. I do not think that Mr. McLean has told us everything about the costs of dealing with potatoes. I think he must have left one or two things out that are perhaps advantageous from the Canadian producers' point of view. Perhaps it has something to do with transportation; or perhaps it has to do with the price of land. There are other things that must go into the calculations, because one must rationally ask: If he is confronted with these enormous discrepancies in costs between Manitoba and South Dakota, what is he doing in Manitoba? He has a plant there and it seems to be operating satisfactorily. Is the plant going to stay there when the tariff has been reduced by 1 per cent in the first year, or will Mr. McLean move out on that account? Mr. McLean can answer that, because I certainly cannot.

It seems to me that, without examining it further, we should be careful about accepting the testimony of these gentlemen who, quite properly, have a self-interest to express. They should not be purported to the house, as was done yesterday, without qualification.

Mr. McLean gave us another interesting piece of information which has to do with tomatoes, most of which are grown in the Niagara Peninsula. He told us that in Ontario the cost of tomatoes was $1.10 and in California 76 cents; so there is a 46 per cent advantage to the California manufacturers over Canadian manufacturers. He predicted the demise of the tomato industry in that part of Canada. Later on, perhaps the same day although I am not quite sure, we heard from somebody else on the same subject and that somebody else was Dr. Larry Martin, an agricultural economist from Guelph University. Speaking about tariffs, he said that, on the whole, American tariffs against us in this particular category of manufactured grocery products are greater than our tariffs against them. So that is something to be taken into account. However, with respect to tomatoes, and I do not know why he mentioned it, he said that the Canadian climate is really quite good for tomatoes. Furthermore, the processing of tomatoes—the very point that Mr. McLean was talking about—is one of the fastest growing domestic industries we have. Tomatoes are subject to the same 1 per cent American tariff system as I described for potatoes. There is something more. Who are the biggest exporters of tomato paste to the United States? Is it Canada? No. The Italians are the biggest exporters, and they are going to have to pay a duty of 15 or 17 per cent on what they ship to the United States, whereas our duty will be reduced to nothing.

● (1500)

I say to the Canadian tomato people that there may just be an opportunity for them here in respect of the manufacturing of tomato paste in this country after the Free Trade Agreement comes into effect. There were those who wondered why the industry was unable to speak with one voice and say, "We do not like the deal," or "We do like the deal." They may have heard from some people, like the tomato paste dealers, that maybe it was not as bad as all that. So I say, when you trot forth the evidence of the committee, which it is appropriate to do, it is necessary to look at it very carefully to ensure that you have not misled yourselves—and I am not immune to that—with respect to the facts that you present to the Senate.

There is another issue which I think should be ventilated. It has to do with energy. Some very telling points were made yesterday so far as my friends opposite were concerned. Very telling points. They liked what they heard, because they heard that we were doing things with respect to energy that we were going to live to regret and that our capacity to deal with the supply necessary for the Canadian people was going to be seriously impaired if that particular energy clause continued to be part of the bill.

I want to say a word or two about that. First of all, I do agree with my honourable friend, the Leader of the Opposition, that the GATT rules on energy can be disregarded because they are superseded in any respect. I am not sure whether I understood him exactly, but he seemed to think that there were two kinds of shortages. One was caused by OPEC

and there was some other kind of shortage as well. I think there is only one kind of shortage in an international trading policy, and OPEC is probably part of it. If the national energy policy taught us anything, surely it taught us that we cannot get away from the world market in this particular product. However, my friend did not dwell on that. He dwelled on the National Energy Board. He made the statement that the National Energy Board would be the one that decided whether the proportionality clause in the treaty would be invoked. At least he left me with that impression. I am not sure what he meant, but I can tell him that it is the federal Governor in Council only who will decide whether to invoke the proportionality clause by prohibiting the exports of oil to the United States of America. However, I want to go one step further, because that clause can only be read and understood in connection with the International Energy Authority. The International Energy Authority is a body that my honourable friend dismissed. He said that it has no application and is a red herring. I think that was his expression. I venture respectfully to disagree. I say to him that that is not the case, because, in case of crisis, the International Energy Authority prevails over the Free Trade Agreement. Senator Stewart agrees with that.

Senator Stewart: I think it is the International Energy Agreement rather than "Authority".

Senator Roblin: I am sorry, I should say "Agreement". With all this material in front of me, some of it does not come out right, but my friend corrects me and he is correct.

Senator Everett: I think it is "Agency", with respect, is it not?

Senator Roblin: I thought it was the International Energy Authority. Is it "Agency"?

An Hon. Senator: Agreement.

Senator Roblin: Agreement? At any rate, do you know what I mean?

An Hon. Senator: Yes.

Senator Roblin: That is the main point.

Senator Steuart: Or is it all of the above?

Senator Roblin: Or all of the above, yes. Well, it does prevail in time of crisis. In any conflict between the agreements, the International Energy Agency prevails over the Free Trade Agreement. That is something that is clearly set out in the agreement itself. We know that.

Now, what is the effect of that? That is the real point I want to come to. What is the effect of that? I have already said that it is for the government to decide key policy questions such as whether to impose export restrictions that would trigger obligations under the FTA. I have said that, in the event of a major oil supply distribution problem, restriction of oil exports would be contrary to Canada's commitments under the International Energy Agency's sharing program. The International Energy Agency commitments would take preference over the Free Trade Agreement. All right. So much for that.

[Senator Roblin.]

What does it mean? Well, we were told what it meant, and I have to admit that my honourable friend, yesterday, made it quite clear that he did not like what he was told. He did not believe the evidence presented to the committee with respect to the meaning of the IEA clause and the fact that it prevails over the Free Trade Agreement. Now, the experts had prepared two scenarios. You can prepare any number, but they had prepared two scenarios based on the assumption that OPEC had blown up and there was a crisis in world oil.

The first scenario was based on 1987, when Canada was in surplus and we were net exporters. The study compared the obligations under the IEA and the obligations under the FTA. The nub of it is that under the IEA we were responsible for 967,000 barrels per day, whereas under FTA it would be 833,000. That means that the IEA is more onerous than the FTA in conditions of shortage of the kind mentioned in this scenario.

They then took another scenario. They said, "Supposing that in 1995 we are net importers of oil and a crisis arises of the kind that is mentioned; what happens to us then?" Well, under the International Energy Agency our obligation is to provide 421,000 barrels per day, whereas under the Free Trade Agreement it is 394,000 barrels per day. So that is the comparison of the proportionality clause in the FTA with the obligations to supply oil that we undertook—in 1974, mind you; nothing new—under the International Energy Agency.

So I put it to you that, whatever you may think about the proportionality clause, the fact that we are bound to act under the International Energy Agency, should need arise, is the overriding clause of the agreement. According to those two scenarios, which were prepared by people we must believe were not fudging the books—whatever else they are doing, they are not fudging the books—our obligations under the International Energy Agency are as onerous as, if not indeed more onerous than, the ones we see under the Free Trade Agreement. So I think it is wrong to dismiss the International Energy Agency in the way my friend does. It is wrong to come to the conclusion that we will not honour our obligations under that agreement. I believe we will. It says so in the Free Trade Agreement. If that is so, then the relative burdens under the two different plans of dealing with energy emergencies become clear. Certainly we are no worse off, and I say we are better off, under the Free Trade Agreement than we were under the still existing and still dominating arrangements of the International Energy Agency. I think that question has to be weighed carefully to see whether you follow my logic, whether you agree with my reasoning. That is a point we can discuss.

● (1510)

But there is another point, and this is where my friend really hit home. When discussing the question of what happens to the supply of gas if we find that we do not have enough to go around, he said that under this agreement the National Energy Board could not stop the exports and that, if the government tried to stop the exports, it would introduce proportionality, and we would be in a mess and would not be able to control

the supply of gas to our own people because, first of all, we would have to consider our obligations to the United States.

I must say that he was exercised by that and he felt that we had given away a dollop of sovereignty that would not be satisfactory in years to come.

But it is not that tough. If he were here I would comfort him and tell him that it is really not that tough, that there are good, businesslike ways one can deal with this long before any emergency arises. If he just took the trouble to read the report of the Standing Senate Committee on Energy and Natural Resources entitled: "Natural Gas Deregulation and Marketing", he would get some fairly good ideas of what should be done in order to protect us now against shortages in the future. I will read some of the recommendations of that committee because they are enlightening. The report states:

> The Committee makes the following observations regarding the Canadian gas market.
>
> Over the last three years, Canada has made a substantial achievement in moving from a highly regulated market—

which, incidentally, I think Senator MacEachen would prefer

> to a free and responsible market. The Committee supports this initiative of freeing oil and gas markets from heavily administered arrangements.
>
> Canadian public policy should nevertheless recognize the legitimate, long-term role of providing energy security to consumers and stability to producers, transporters and distributors when market forces are unable to do so.
>
> Long-term supply commitments secured by contracts should be the basis for protecting the interests of all participants in the natural gas market.
>
> To protect these interests and to help resolve one of the contentious issues in today's domestic gas market, the Committee advises:
>
> That the core market of gas consumers who lack fuel switching capability or access to other readily available energy supplies be protected by supply contracts no less than 10 years in length;

So far so good.

It goes on to state:

> That those supply contracts be evergreened—

which means that they keep on going

> and contain equitable price adjustment and price arbitration provisions;
>
> That the National Energy Board oversee the system of long-term core-market contracting; and
>
> That short-term direct sales to consumers in the core market be prohibited.

The final comment is:

> The Committee believes that its analysis, advice and recommendations provide a sound policy position from which it can fairly evaluate the merits of the Canada-U.S. Free Trade Agreement.

Well, if you cannot catch them on the swings, you catch them on the roundabouts, and, if you are concerned about the supply of gas down the years to Canadian consumers, as my honourable friend was yesterday, here is one possible answer to that question. It seems to me that, if we just take the sensible, business-like, practical observations contained in this report, which, incidentally, is a unanimous report, we can find an answer that does not involve us in the horrendous fears that were aroused in the minds of members opposite during my honourable friend's discussion yesterday.

Honourable senators may be glad to know that I have done the best I can with the important points my friend raised yesterday. I simply come back to a question that has not yet received the thoughtful consideration of senators and others but that I think must be uppermost in our minds before long: If we are a party to defeating this agreement, what are we doing to our country? That is the question. Are we really preserving its social policies, it cultural policies, its independence and national character from destruction, as the extremists would have us say? Or are we really dealing with an economic policy that supports the cultural policies, the social policies and the Canadian way of life as we have developed it?

I made this point yesterday, and I return to it again because I think it is one of the key considerations we have to debate. If you accept my argument that all these horror stories about national dissolution are probably just a little exaggerated, to put it no milder than that, and if you accept my argument that there is a substantial, indeed, I think, overwhelming economic character to this agreement, then we have to ask ourselves what we are doing if we do not pass this bill.

I do not know how many honourable senators read the publications put out by Informetrica, which is a private economic research firm. After what happened to the C.D. Howe Institute yesterday, I am a little hesitant to bring forward any expert of any kind, because they usually get shot down by my friends opposite. However, if honourable senators do read this impartial and balanced publication, they will know that it is not a government toady by any stretch of the imagination. If honourable senators have been reading the publications of that firm, they will have seen that they are saying to us that if we do not pass the Free Trade Agreement legislation there will be adverse economic consequences that we will not be able to avoid.

I have one such publication in my hand; it consists of two pages, but I will not read it now. I simply say to the Senate that in dealing with this question of free trade we have to consider these larger issues. Maybe Mr. Turner should be elected; maybe Mr. Mulroney should be elected; but it seems to me that the issues here go deeper than the fortunes of any one political person or, indeed, any one political party.

There are those who feel in their hearts that the deal is evil. I shall not convince them to change their minds. But there are those who have been looking for reasons to support the agree-

ment. I hope I have offered some reasons to support the agreement in what has been a lengthy intervention in the debates of this house.

Hon. John B. Stewart: I wonder if the Honourable Senator Roblin would deal with questions now.

Senator Roblin: Certainly.

Senator Stewart: I have two questions, one is fairly simple and the other more complicated. He told us, when he was mentioning the testimony of the Grocery Products Manufacturers of Canada, that the association said it was not prepared to take a stand one way or the other on the Free Trade Agreement.

I do not want to ask a rhetorical question, so let me put it this way: Does Senator Roblin remember that when the association appeared before the committee a comment was made that its membership hardly appeared like the membership of the IODE, that it includes Campbell Soup Company? Why should they be opposed to the agreement? Why should General Foods Inc. be opposed to the agreement? Why should H.J. Heinz Company be opposed to the agreement? Why should Kellogg-Salada be opposed to the agreement? Why should Christie Brown be opposed to the agreement? Why should Nabisco Brands be opposed to the agreement?

Is there any wonder that strictly Canadian firms might take a position different from that taken by these other members of the Grocery Products Manufacturers of Canada?

Senator Roblin: I think I can argue with my friend as to which of those firms are multinational, but I really do not care to do so, because I say to him that I am not at all alarmed if international firms find the Free Trade Agreement to be a good thing, because they have been good citizens of this country. If they all left and moved to the United States tomorrow, my honourable friend would be the first to miss them. So I am glad that they like the Free Trade Agreement and I hope that they stay and prosper under it.

Senator Stewart: Of course, they will prosper in Chicago rather than in Toronto or its suburbs, but that does not worry my honourable friend. I understand.

I will pass over questions concerning Mr. Archie McLean's testimony. I want to come to what Senator Roblin has said about the provisions in the agreement with regard to energy. What I have there is a logical problem rather than a factual problem.

Senator Roblin sketched out for us very briefly this afternoon the obligations relative to oil under the International Energy Agency. He outlined in a similar, brief way the obligations of Canada under the Free Trade Agreement. He argued that the former are more onerous for Canada.

● (1520)

Are we to understand that Senator Roblin believes that the two sets of obligations are to apply in the same circumstances? I believe that is what he said when he entered upon that comparison. If that is so, why was a new set of obligations introduced? If, in the circumstances in which there are to be restrictions, the International Energy Agency obligations apply, why does this agreement set forth a second set of obligations? Is it not a fact that the second set of obligations, those under the FTA, are to apply in a different set of circumstances?

Senator Roblin: I should like to deal with Senator Stewart's first question in which he says that all of these American nationals are going to go to Chicago. I do not think they will. I think my honourable friend will live long enough to see that they do not. He will see that some will move to Chicago, but he will also see that some come here, because that is the nature of the economic process. So I think he can set his mind to rest on that.

In connection with the other agreement, I was not present at the negotiations so I cannot give a factual answer, because I do not know. But it seems to me that the agreement clearly recognized that the International Energy Agency had a role to play; and if it came in conflict with the Free Trade Agreement then the International Energy Agency obligations would take precedence. I think that is a reasonable assumption to make.

Senator Stewart: I do not want to press too persistently, because there does not seem to be much there to be extracted. Does Senator Roblin think that there are some circumstances in which the obligations under the Free Trade Agreement with regard to energy would apply to Canada? Or does he think that we always, in the circumstances of any shortage, have to meet the more demanding obligations under the International Energy Agency?

Senator Roblin: I think my friend will have to recognize the fact that either possibility is present; and the aim of my address was to indicate that the obligations that we have already accepted under the IEA, no matter how they happen to be triggered, are more onerous for us than the obligations under the Free Trade Agreement.

Senator Stewart: The trigger would be different.

Senator Roblin: I am not saying it is different, because my friend does not know. He makes the supposition. Neither of us knows, but the point at issue is whether we have accepted a new obligation that, in principle, is more onerous than the one we already happen to have. I say no.

Hon. Jerahmiel S. Grafstein: If Senator Roblin would permit another question arising out of his comments, I, with my colleague the senator, was also a member of the Foreign Affairs Committee and had the opportunity to spend many meetings reviewing the different aspects of the agreement. I found that the information that we received from the diverse group of witnesses was both enlightening and, in many instances, puzzling. Is Senator Roblin suggesting that, having spent that comprehensive time on the agreement, as the members on both sides of the committee did, we should not examine the legislative draftsmanship that is to implement that agreement and, at the same time, review the American legislation, which is supposed to conform with the agreement as well?

Senator Roblin: I would not object to that on either count.

Senator Grafstein: So I take it that the senator, in his comments, is not suggesting that, if the chamber deals with it, a committee should not spend an adequate period of time to examine whether or not the American legislation and the Canadian legislation, in fact, conform to the agreement.

Senator Roblin: I would refer to the description of the Free Trade Agreement study given by Senator MacEachen in which he said it was equivalent to studying the bill itself, and as such it was a valuable work to do. Maybe he is right on that. I think it is equivalent to the bill itself. I said so at the time.

If the committee has already done this work, I do not think it could profitably be occupied in threshing old straw and in redoing things it has already done. If he wants to look at the legislation in the United States, he is perfectly free to do so.

Hon. Gildas L. Molgat: I should like to ask Senator Roblin a question. He referred to the testimony of Mr. McLean. I was not at the hearings and I am not a member of the committee; I presume he was there, because he said that he was very impressed by the presentation. He indicated that he still had several questions in his mind in that regard, I gather, because he felt that there was something missing. If that is a correct assumption on my part, would it be useful to ask Mr. McLean to come back before the committee so we can clarify these matters?

Senator Roblin: At the time of the committee, I remember well asking Mr. McLean to account for this apparent ability to overcome all of these adverse economic situations and still produce a profit of 4 per cent in his industry, which he does; but he was not very forthcoming on that.

Senator Molgat: But I thought you had indicated that there was some information that he did not give. Was that not the impression you were giving in your comments?

Senator Roblin: I do not know what impression my honourable friend received, but I stand by what I said.

Senator Molgat: My honourable friend, particularly as the former premier of Manitoba, knows how the marketing boards in our province, particularly in the fields of chickens, eggs, turkeys and dairy products, have been very important in providing a diversified agriculture for Manitoba—much more so than in our two neighbouring prairie provinces. Has he studied what the impact on these marketing boards under free trade will be?

Senator Roblin: I can say that the Free Trade Agreement saves the marketing boards harmless. What it does in order to extend some small comfort to the manufacturers is to set a quota of material that can come in from the United States. It does not have to go through the marketing board system. Those quotas are relatively modest, and in my opinion they will not harm the marketing board system at all.

Senator Molgat: But would it not permit or encourage the manufacturers to close their Canadian factories that are using products from the marketing boards and establish those manufacturers elsewhere?

Senator Roblin: I have gone over that thoroughly with respect to the tomato growers, because this clearly indicates to me that they would not move on that ground. In fact, other expert testimony, as I have told the house, says that they will prosper.

Hon. Hartland de M. Molson: Honourable senators, the Free Trade Agreement between Canada and the United States is undoubtedly one of the most important decisions that have been placed before this house. We have been offered an enormous amount of information, even by those who have not read the bill in full. We have had opinions pro and con from the media, both written and on the air; and in Parliament the debates have spread out both the political and partisan aspects of Bill C-130 with considerable heat.

I should now like to comment on the quality of the speeches of the senators who preceded me. If I may be permitted to say so, I think this debate has brought forth some of the best speeches we have heard in the Senate in a very long time—and I would not distinguish in this case between the quality of the "old" Senate and the "new" Senate. Both deserve our congratulations and, I think, our thanks.

• (1530)

In spite of all this, what we might call "son et lumière", including the excellent speeches in this chamber, there is one vital aspect of the situation that, in my view, has not been brought into focus. It appears to me to be crucial to our decision to support or to oppose the Free Trade Agreement, and I will come back to it later.

Without wishing to bore senators with my personal opinion or experience, I should explain that over 50 years my own business experience has been with a company that has had a successful history for a couple of hundred years and is, in fact, the oldest company in the industry in North America.

Honourable senators, that industry provides taxes to federal and provincial governments of over $3.4 billion annually and provides 18,500 jobs directly and a total of 85,500 jobs directly and indirectly. Its contribution to the gross national product amounts to $9.426 billion. That is 1.7 per cent of our GNP. It operates under licence and regulation from both levels of government. Among other odd conditions, it is compelled to buy a principal ingredient, barley, through the Canadian Wheat Board at a premium varying between 50 and 100 per cent over world prices. This unusual condition has provided a bonus to grain farmers of about $25 million annually.

But honourable senators must realize that there is no free trade within Canada. Our provinces, in their wisdom—or in their greed—have set up barriers so that no beer can be sold by a company that does not operate a brewery in that province. My company had ten breweries across the land, all but three too small to compete in a modern world, and this was compounded by high labour rates and lower production. Some provinces have increased the difficulty by selling imported discount beer at lower discount prices in direct competition with the product of the Canadian companies.

The quickest snapshot of the Canadian scene for this industry is that the consumer, on average, pays 52 per cent of his cost of a bottle of beer in Canada in tax, while in the United States the average tax content is 19 per cent. It is obvious that there is no contest here. We pay 52 cents to our government every time we spend $1 on beer, while Americans pay 19 cents out of the dollar. All of this explains why the brewing industry has been given time to completely reorganize its affairs, and this will be a massive task.

This reorganization must be undertaken or they will be out of business—the shareholders, the employees and the management. There is no other way out. This also explains why one with my background can only be expected to oppose the agreement vigorously.

I want to return to the factors I mentioned earlier that have a bearing upon the decision to support or to oppose the bill.

First is the enormous accumulative deficit in the United States, which is over 2.125 thousand million dollars—a staggering figure. Second is the continuing United States trade deficit, which is running at a rate of about $10 billion to $12 billion monthly. These are obviously not situations which the Americans will accept permanently. They will insist upon putting their financial and trading house in order some day soon. When they do, what will happen?

We are all too well aware of powerful, pervasive protectionism in the United States. I was interested in Senator Roblin's observations in that regard, because I cannot but completely agree with what he said. The serious problems we have experienced in recent years with our exports of softwood lumber, shakes and shingles, potash, steels, fish, potatoes and other important items have to be accepted as proof of the consequences of the status quo. Obviously, when steps are taken to improve the U.S. balance of trade, their greatest trading partner will have to be hurt the most. We all know that Canada is by far their greatest trading partner.

Although Senator MacEachen assured us that evidence in Washington persuaded him that there was no danger of protectionist action, I have never forgotten our surprise when, as your chairman, I attended a meeting of the Canada-U.S. Inter-Parliamentary Association. We were arguing with our American counterparts the circumstances surrounding the fisheries and boundaries agreement. At that time one of our members said that he could not understand how a treaty, which had taken a year and a half to work out and which had finally been agreed to and signed by both countries, had still not been ratified by the U.S. Senate a full year and a half later. The argument we heard was that the President's signature was not binding. When our members expressed some astonishment at this, the American response—and I do not remember the name of the spokesman—was, "You Canadians don't understand our Constitution. We regard our President only as the agent of the Senate." Honourable senators, this shows the great difference in governmental practice between the two countries. It also shows what can happen when we think something is all settled when in reality it is not. I am not the least bit reassured by protestations of innocent intention.

[Senator Molson.]

The world, with Europe presently on the march, is moving towards closer and closer ties. We have no choice but to follow this trend. If not, we will go proudly towards insignificance.

Honourable senators, the reasons I have outlined explain why, although my personal feelings persuade me to oppose the bill, my conviction is that not to have the agreement would lead to disaster. Under the circumstances, I have become convinced that I must support the free trade bill.

Some Hon. Senators: Hear, hear!

Hon. Daniel A. Lang: Honourable senators, until this very moment I had not intended to speak. I hope that my doing so does not disturb the chamber. I am rising at this time to put forth one anecdote, or perhaps a warning, as we go into a general election. I had prepared a lengthy speech to deal with this issue, but Senator Everett completely underscored everything I had to say. I felt that I was going to make myself totally redundant in repeating what he has said to this chamber.

What I am basically afraid of now is that, if we go into a general election on this issue of free trade, we are going to see 1911 repeat itself. I must confess—and this is a profession of faith—that I would have voted Liberal in 1911, as I will vote Conservative this time because of the same issue.

● (1540)

I remember my dear, long-gone father-in-law telling me a story about the days when he was a young man. In those days there was no radio or television; there were no electronic media. However, there were candidate meetings with Liberals and Conservatives—there was no NDP then—and they would both debate. The Liberal candidates, who were supporting the Laurier government, would promote the advantages of reciprocity with the United States. A Tory candidate would not deliver any message whatsoever. He would merely put his hands behind his back and pull out a Union Jack. There were roars of applause, and Laurier went down to defeat.

I am afraid that, if we get into this debate publicly in an election campaign, we will have the Margaret Atwoods, the Pierre Burtons and publishers such as Hurtig out west get into an emotional confrontation about an issue that should be purely and exactly an economic issue. But, no, you will hear from all these people out there. They will be on the hustings, and they will try to drive us into the last refuge of the scoundrel: patriotism. This is an economic issue; it is not a question of patriotism.

I have no fear whatsoever that we, in our culture as Canadians, will survive as Canadians, as distinct from citizens of the United States. What I am saying today—and I should not be standing and improvising—is that I was a Liberal. If I had been born in 1911, I would have voted Liberal. Today I have to put myself in the invidious position of voting Conservative and yet, at the same time, trying to vote against Meech Lake.

I should like to deal with Meech Lake for a moment. The worst thing we can do is get into a situation of free trade with the United States and, at the same time, weaken the whole structure of our federal system under Meech Lake.

An Hon. Senator: Hear, hear!

Senator Lang: I cannot conceive of a government doing those antithetical things. I know what my friend Senator Flynn wants. He wants to paralyze the central system. I want to go into a free trade agreement with the United States with all the powers and strengths the federal government needs to deal with a much larger entity, that of the Government of the United States.

How do I vote? I do not know how I am going to vote.

Senator Frith: Go to Florida, Dan.

Senator Lang: I think I will leave town until it all blows over.

Senator Frith: That's the only way.

Senator McElman: Wait until the hurricane passes.

Senator Lang: Honourable senators, this is merely a confession of faith, and I hope you accept it as such. In this campaign, please do not bring out these little flags.

Senator Flynn: We will pray for you.

On motion of Senator Doody, for Senator Murray, debate adjourned.

[*Translation*]

INTERNATIONAL CENTRE FOR HUMAN RIGHTS AND DEMOCRATIC DEVELOPMENT BILL

SECOND READING

Hon. Arthur Tremblay moved the second reading of Bill C-147, to establish the International Centre for Human Rights and Democratic Development.

He said: Honourable senators, forty years ago, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights, a remarkable document that has provided the foundation for international law on rights and freedoms. Together with the convenants adopted subsequently on civil, political, economic, social and cultural rights, the Declaration now constitutes what is called the International Bill of Human Rights, which is very much the basis of our own Canadian Charter of Rights and Freedoms.

It is in this context that Bill C-147 proposes to establish an International Centre for Human Rights and Democratic Development.

The concept of the centre goes back to recommendations made by the Special Joint Committee of the Senate and the House of Commons on Canada's International Relations, in its report of June, 1986. At the time, the committee recommended that Canada establish an international co-operation program that would support and promote the advancement of political, civil and cultural rights, just as its aid program supports economic and social development. To that end, the committee recommended establishing an international institute of human rights and democractic development. Since then, three more parliamentary committees were to support this concept: the Standing Committee on External Affairs and International Trade—

Hon. Royce Frith (Deputy Leader of the Opposition): Excuse me, Senator Tremblay, which committees prepared these studies?

Senator Tremblay: Three other parliamentary committees were to support the same concept and I will name them: the Standing Committee on External Affairs and International Trade, the Parliamentary Group on Haiti and the Special Committee on the Peace Process in Central America.

Senator Frith: Do you have the dates of the studies done by these various committees?

Senator Tremblay: Unfortunately I don't have the exact dates, but I imagine they were done after 1986, because in the text that was so kindly prepared for me I started by mentioning the Special Committee of the Senate which reported in 1986.

Senator Frith: I won't pursue the matter.

Senator Tremblay: Well, it was during the last two years, from 1986 onward.

More specifically, the provisions of Bill C-147 reflect the general philosophy of a report prepared in June 1987 by Professor Gisèle Côté-Harper of Laval University Law School and Dr. John Courtney of the Department of Political Science of the University of Saskatchewan.

Their report entitled *International Co-operation for the Development of Human Rights and Democratic Institutions* was itself the result of a consultation involving several hundred Canadian and international organizations and individuals.

Honourable senators, as prescribed in clause 4 of the bill, and I quote:

> 4. The objects of the Centre are to initiate, encourage and support cooperation between Canada and other countries in the promotion, development and strengthening of institutions and programs that give effect to the rights and freedoms enshrined in the *International Bill of Human Rights*, and, in carrying out those objects,
>
> (*a*) to support developmental programs and activities for the benefit of developing countries; and
>
> (*b*) to foster research and education, discourse, the exchange of information and collaboration among people and institutions in Canada, developing countries and elsewhere.

Within the context of its mandate, the centre will endeavour to design programs for developing countries. To that end, statutory financing is provided under Official Development Assistance, the ODA program. Programs in co-operation with developed countries, however, will be financed from sources other than this program, and more specifically from contributions received from public and private sources.

In any case, as far as developing countries are concerned, the centre will provide technical and financial assistance to countries that want to develop their own institutions in support of rights and freedoms or improve existing ones. It may assist non-governmental groups and organizations as well as public institutions. For instance, it may offer advice and provide

technical assistance or training to co-operatives, trade unions, professional associations and any other groups involved in seeking a stronger voice for citizens. It may also help governments, commissions and parliaments to improve electoral, legislative, judicial and legal law enforcement and correctional systems. It may also support public and private organizations which seek to secure equality of rights for disadvantaged groups.

● (1550)

An independent corporation, the centre will be headed by a 13-member board, of whom at least nine will be Canadians and three from developing countries. Ten of the directors will be appointed by the Governor in Council. These, in turn, will select and appoint their three colleagues from the developing countries.

This board of directors will develop the centre's program of activities from the applications it receives from organizations interested in participating. The bill provides for funding under official development assistance, the program I just mentioned, that will go from one million dollars in the first year to five million dollars in the fifth year. For subsequent years, the level of funding for the centre will be determined by Parliament. Every five years, the centre will be subject to a thorough review by Parliament. This five-year review, in addition to the annual report to be submitted by the centre, will make it possible to ensure that the centre's programs remain compatible with the main thrusts of Canada's foreign policy and Canadian cooperation in international development.

Honourable senators, the idea of an international centre for human rights and democratic development has been well received abroad. The government has already received many inquiries from governmental and non-governmental organizations in several countries. The institutions, institutes and foundations working to promote rights and freedoms internationally welcome the prospect of a new Canadian actor on the scene, so to speak, with enthusiasm. This is an opportunity Canada should not miss to make its mark in an area where fundamental values are involved.

When Bill C-147 has been passed, the government will choose the members of the board of directors. A selection committee has been tasked with examining the many applications received from throughout the country and suggesting a list of candidates. This committee is chaired by Gordon Fairweather and includes Marc Brault, Canada's Ambassador in Cairo, Margaret Catley-Carlson, President of CIDA, Francine Fournier, Secretary General of the Canadian Commission for UNESCO, René Lacoste of the Jules and Paul-Émile Léger Foundation, Dr. William Saywell, President of Simon Fraser University, and Judge Walter Tarnopolsky of the Superior Court of Ontario.

Honourable senators, I conclude by saying that Bill C-147 reiterates and confirms a commitment of the government, Parliament and the Canadian people to human rights and democratic institutions. It is a logical extension of Canada's commitment as a party to the International Bill of Human Rights to respect, strengthen and promote rights and freedoms.

[Senator Tremblay.]

Therefore, it is not surprising that the bill was approved unanimously by all parties in the House of Commons.

I imagine and hope that it will be the same in this House. Thank you.

Senator Frith: Honourable senators, it seems to me that the principle of this bill now before us has been around for a long time already. It has now reached a quite respectable age.

This principle has also received widespread support.

For these reasons, it seems to me, after consulting two of my colleagues, that there is no reason not to accept the principle of the bill and give it second reading so that it can then be sent to committee.

The Senate committee that seems most appropriate to me is Foreign Affairs or maybe also Legal and Constitutional Affairs.

Perhaps the sponsor of the bill has thought of this and prefers one committee over another.

The Hon. the Speaker *pro tempore:* Honourable senators, if Senator Tremblay speaks now, his speech will end debate on second reading.

Senator Tremblay: This will not be a speech to end debate, Mr. Speaker.

I simply want to point out that I did notice Senator Frith's use of the word "catholique" in French. I suppose that he meant it in its original meaning of "universal".

Senator Frith: That is right, Senator Tremblay.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. Arthur Tremblay: Honourable senators, this may just be a superficial preference, but in the list of items for the mandate of the various committees, "foreign aid" appears under the Standing Senate Committee on Foreign Affairs.

So I think it is quite right to refer to this committee a bill that obviously—

Hon. Royce Frith (Deputy Leader of the Opposition): The bill relates to international assistance and not rights.

Senator Tremblay: Rights as they relate to foreign aid.

On motion of Senator Tremblay, bill referred to the Standing Senate Committee on Foreign Affairs.

[*English*]

● (1600)

THE HONOURABLE ANN ELIZABETH BELL

FELICITATIONS ON RETURN TO CHAMBER

The Hon. the Speaker *pro tempore:* Honourable senators, on your behalf I wish to salute and welcome back to this

chamber Senator Bell, who has been away for a long time and with good reason. Welcome, senator.

Hon. Ann Elizabeth Bell: Honourable senators, I have been sitting here busily thinking what a very good case Senator Tremblay has just made for this International Centre for Human Rights and Democratic Development, and I almost missed the Speaker's remarks. It is very kind of you. I must say I love being back and I have missed you all very much.

ENERGY AND NATURAL RESOURCES

CONSIDERATION OF TWELFTH REPORT OF COMMITTEE ENTITLED: "NATURAL GAS DEREGULATION AND MARKETING"—DEBATE ADJOURNED

The Senate proceeded to consideration of the Twelfth Report of the Standing Senate Committee on Energy and Natural Resources, entitled: "Natural Gas Deregulation and Marketing", tabled in the Senate on 7th September, 1988.

Hon. Dan Hays: Honourable senators, I want to speak today about the natural gas sector in Canada, in the context of the report of the Standing Senate Committee on Energy and Natural Resources tabled September 7, 1988, and in view of the pending Free Trade Agreement. At the beginning of my comments I should like to associate myself with the remarks made by Senator Roblin earlier in the debate on Bill C-130 in support of the core market concept, which is a recommendation of the Standing Senate Committee on Energy and Natural Resources. I should like to talk about this subject at some length, the reason being that the core market is a very controversial idea. At the present time it is not the policy of the Government of Canada, and it is a matter of dispute between one of the major producing provinces, my province of Alberta, and the Province of Ontario, the major consuming province, as to whether or not this is a good idea. Senator Roblin and I believe that it is.

I might also point out in my opening remarks that the International Energy Program, which is administered by the International Energy Agency—a creature of the International Energy Agreement—is not applicable to natural gas. I make that comment, honourable senators, because it was the subject matter of an exchange between Senator Roblin and Senator MacEachen in the context of the effect of the Free Trade Agreement on the energy trade within Canada and our ability to provide for our own long-term security of supply.

Natural gas, after oil, has become Canada's most important commodity in domestic energy use and in energy trade with the United States. It is important, therefore, that we understand the nature of the gas market in its new deregulated environment, with the resulting security of supply implications generally, and, in particular, the special concerns we should have in the event Canada enters into the Free Trade Agreement with the United States.

The Energy Committee's Report on Natural Gas Deregulation and Marketing addresses two very important issues: First, while acknowledging the role of market forces in governing the day-to-day workings of the energy marketplace, the committee recognizes that a complex and highly-sophisticated commodity market will not always operate in the interests of all or any of the participants in that market. The committee identified three areas in which there are practical limits to deregulation: ensuring the energy security of the consumer; ensuring the financial viability of the gas transportation and distribution system; and ensuring the economic and operational stability of the natural gas exploration, development and production sector.

The second matter to which I will refer from the committee's report is the controversial issue of long-term gas supply to the core market. The committee recommended that residential, commercial and small industrial gas users in Canada—more precisely, consumers who typically lack fuel-switching capability or access to other readily available energy supplies and characterized as the "core market" or "essential service customers"—be protected by supply contracts no less than ten years in length. These supply contracts should be evergreened—that is, they should contain a rollover provision—and should contain price adjustment and arbitration provisions.

The committee further recommended that the National Energy Board oversee the system of long-term, interprovincial core market contracting. Core market gas buyers could enter into direct-purchase agreements, provided that the contractual arrangement was for no less than ten years. Those consumers wishing to retain the option of installing fuel-switching capability or of changing to a new fuel in the future could remain customers of the local distribution company, which would provide the requisite security through its own portfolio of long-term gas purchase contracts. I will return to the core market issue later in my remarks, observing for the moment that the committee's proposed solution to this contentious matter has several appealing features.

First, however, I want to broaden the basis for arguing that market forces alone are an inadequate mechanism for safeguarding the public interest in the natural gas market in particular and in energy markets in general. Like the committee, I believe that the time horizon over which market forces operate is inadequate to ensure security of energy supply. That security is a function of the evolution of our national energy system over time. Long-term change must be accommodated and guided by long-term policy as energy sources rise and fall in importance and as financial and trading circumstances change. Market forces operate within a timeframe that is largely irrelevant to and decoupled from this evolutionary change.

Secondly, market forces have a history of externalizing environmental costs whenever possible. Society has a dismal record of dumping its waste materials into the air, the water and the soil, unless required by government intervention to act in such a way as to protect the greater public good. Today we see the legacy of that past in the acid rain that damages our forests, lakes and wildlife while corroding society's artifacts

and damaging human health; in the accumulation of carbon dioxide and other greenhouse gases in the atmosphere and the growing potential for devastating climatic modification, and in the host of new chemicals that we introduce into our world environment without knowing the consequences thereof.

At a July 1988 meeting in Winnipeg concerning the western Canadian drought one participant from Environment Canada's Atmospheric Environment Service observed:

> Carbon dioxide, the principal greenhouse gas in the atmosphere, has increased in concentration by about 30 per cent since pre-industrial times. When combined with other greenhouse gases, an effect equivalent to a doubling of carbon dioxide will occur during the first half of the 21st century.

The conference secretariat stated in its summary remarks that:

> ... during the past 100 years the global climate has warmed by 0.5 to 0.7 degrees Celsius. That warming is now expected to take place up to five times the rate to which we have become adapted. Within a decade or two conditions in both an absolute sense and with respect to the rate of change may be outside the range of previous experience.

Such environmental problems are far beyond any ameliorative action that market forces can provide. Electric utilities install acid gas scrubbers because governments impose emission limits. Automobile manufacturers add catalytic converters to their products because governments require them. This view that people and companies operate with something less than philanthropic abandon is well captured in a quotation from the book *The Politics of Hunger* by John Warnock:

> ... people pursue their own immediate self-interest. The goal is to maximize personal well being, right now, today. There can be no concern for future generations. As Robert Heilbroner points out, given this view of life "No argument based on reason will lead me to care for posterity or to lift a finger in its behalf. Indeed, by every rational consideration, precisely the opposite answer is thrust upon us with irresistible force"...

Still another issue to which the market is largely insensitive is the plight of disadvantaged groups or regions. Social programs and regional development programs are driven by government policy, not by market forces, and are necessary for just that reason. No modern democratic government is going to allow undue hardship to a significant segment of its public because economic circumstances have left those citizens behind.

● (1610)

Warnock also examines this issue in his book and makes an appropriate comment. Writing about Ireland in the middle of the last century, he says:

> The Irish famine was also a major test of Adam Smith's theory of laissez-faire, or the free market. As Cecil Woodham-Smith points out in her classic study of the famine, almost every politician at that time, Whig or Tory, embraced this classical economic theory with religious fervour: individuals should be allowed to pursue their own self interests; private property in the means of production was sacred; the landlord must be free to charge the rent the market would bear. In this instance the British Government was not to interfere in the legitimate commerce of selling Irish food and agricultural products to the highest bidders.

The results of this policy in combination with the surprise of the potato blight causing failure of that crop are well known. Within ten years two million people starved to death and another two million emigrated. Labour became Ireland's major export, and its population today, 1988, is still around one-half of what it was in 1941.

It is important to recognize what market forces cannot do as well as crediting them with their beneficial impact. We must be aware that an objective of the proposed Free Trade Agreement is to tie Canada much more closely to a market-driven world, leaving the Canadian government less latitude to act in the future in what may be perceived as the public interest.

In this context, I refer to the recently published report of the Energy Options Group, entitled: "Energy and Canadians Into the 21st Century, An Inconsistent Review of Canada's Energy Future". In a section of the report dealing with security of supply generally and the potential problems presented by Article 904, the proportional access provision of the Free Trade Agreement, the report extols the virtues of unfettered energy sector markets, arguing that:

> Developing trade and using our resources, guided by economic considerations and the operation of market forces, will increase the number of choices available both now and tomorrow, and help make the adjustments necessary to cope with energy conditions and the broader economic realities of the next century.

Yet later the report concludes:

> Thus, as the advisory committee sees it, an informed and vigilant Canadian Government remains fully empowered to ensure that exports to U.S. markets do not exceed long-term sustainable levels.

That assertion does not sound to me like any reliance on market forces. I read it as a willingness to return to some form of export control if circumstances are judged by a "vigilant" government to warrant such action.

The trend in the export of Canadian gas to the United States clearly warrants monitoring. From a very low level of export in the 1950s, Canadian gas sales grew at an impressive rate throughout the 1960s, peaking in 1973 at 1.03 trillion cubic feet. Sales held steady during the remainder of the 1970s in the range of 0.9 to 1.0 trillion cubic feet. The early 1980s saw depressed gas exports as the regulated Canadian price began to move out of line with prices in the U.S. market and as American demand contracted sharply. From 1980 through 1984 yearly export volumes ranged from 0.71 to 9.80 trillion cubic feet.

Exports recovered to 0.92 trillion cubic feet in 1985, only to fall back again in 1986 as the price of oil plummeted and

many American industrial and utility users switched from natural gas back to oil. During the winter of 1987-88, however, gas exports surged to a record monthly high as Canadian prices continued to slump. Over 1987 gas exports amounted to almost one trillion cubic feet, representing the foreign sale of about 36 per cent of Canada's marketable output of natural gas.

During the first three months of 1988 U.S. gas deliveries were running 33 per cent higher than in the corresponding period in 1987, indicating that Canadian producers will apparently set a new record in annual exports this year. I must say that, as an Albertan living in a community where energy is the prime motivator of economic activity, I am pleased with this development. I would, however, like the Canadian market to be given special consideration, because I believe it should be our best market. For this reason I strongly support the core market concept recommended by the committee, because I believe it can achieve that objective within the market-based environment in which we wish to operate.

Let me now return to the question of protecting core market gas users, an issue linked to the erosion in authority of the National Energy Board in the new free market environment and under the Free Trade Agreement.

For a quarter of a century, from 1960 to 1986, the National Energy Board applied a reserves formula to determine the quantity of Canadian gas that could be sold in the export market. For most of that time the test took the form of retaining in Canada reserves equal to 25 times the current year's domestic demand. For the period 1979 to 1986 a deliverability test was also applied.

In 1986 the reserves formula was replaced by a reserves-to-production ratio requirement of 15 times current annual gas output, supplemented by a productive capacity check. In 1987, in the context of deregulation, the National Energy Board adopted a market-based procedure that abandoned any quantitative test for gas export licensing.

In this new gas licensing regime, the National Energy Board granted a 24-year export permit, in June of this year, to Pan-Alberta Gas to sell up to 2.1 trillion cubic feet of gas into the southern California market. This new authorization extends by 16 years an existing Pan-Alberta licence that was to expire in 1996. Of most interest, the licence was granted despite the board's assessment that Pan-Alberta does not have sufficient proved reserves of natural gas under contract from Canadian producers to meet all of its current contractual obligations in Canada and the United States.

In this landmark decision, the National Energy Board has allowed reserves yet to be established or contracted for to be committed for export. The board's reasoning makes interesting reading, as the following quotation from its publication "Reasons For Decision in the Matter of Pan-Alberta Gas Ltd." indicates:

> Pan-Alberta's ultimate United States buyer, SOCAL, is seeking long-term supply and has signed contracts to meet its needs. SOCAL is attempting to sign contracts now to supply its requirements starting in 1996. In the board's view there is no reason in principle why Canadian buyers cannot do likewise, and the fact that they have chosen not to do so is not a valid reason to consider deferring the board's decision in this matter, nor is it sufficent reason to deny the export. Moreover, the board's July-1987 decision clearly states that the market is to be allowed to work and under this premise it is up to Canadian buyers to determine their negotiating strategy in the light of available information on other demands for Canadian gas supply.

Apart from the assumption that a local consortium of municipalities, school boards, hospitals, small businesses and so forth can negotiate and anticipate gas market developments in two countries 25 years into the future on an equal footing with the Southern California Gas Company, this is a remarkable statement.

From protecting the interests of all Canadian gas consumers over a 25-year period, the National Energy Board has essentially swung 180 degrees to the position that it is every gas buyer for himself.

Given this abdication of the role of consumer protection, the Senate Energy and Natural Resources Committee concluded that only the device of long-term contracting remained to ensure security of gas supply to essential service customers in Canada.

In the absence of such long-term contracting in a deregulating market, what situation would prevail? The energy options report that, if governments are not vigilant in safeguarding consumer interests, they will subsequently be held accountable by the electorate. Defeating a government that had allowed control of Canada's gas reserves to pass into the hands of U.S. buyers would, at best, be a Pyrrhic victory for the public. The need is to be vigilant today.

The question has been raised whether or not domestic gas buyers would have to pay more in contracting for a minimum of ten years as opposed to a short-term contractual agreement. The answer to this question is not obvious. It may well be that the buyer can obtain a better price in providing demand security for the longer period. In any case, many American buyers are now contracting for Canadian gas in 15- to 20-year arrangements in the current market and do not appear to be having any difficulty in settling these contracts with Canadian suppliers.

At the provincial level, regulatory boards have adopted varying positions. In a joint study, the Alberta Energy Resources Conservation Board and the Alberta Public Utility Board recommended to the provincial government that core market buyers be required to sign supply contracts of at least ten to fifteen years in length to achieve the desired security of supply. In contrast, the Ontario Energy Board, in an August 1988 report:

> . . . takes the position that the focus of attention, when assessing the security of Ontario's gas supply, should not be directed toward the supply of gas as a commodity.

> Natural gas will be reasonably available so long as all the participants in the market act in accordance with their declared support for a functioning, competitive marketplace.

● (1620)

Despite this conclusion, the OEB acknowledges that an overall physical shortage of gas "... would have a severe and damaging impact on Ontario's economy and citizens." One might ask why the board did not previously object to the 25-year protection formula that the National Energy Board administered from 1960 until 1986. The OEB did recommend a minimum three-year term for direct purchase contracts, but only to avoid constraints developing in upstream pipeline capacity.

The challenge then, as I see it, is to operate in a market-sensitive environment while, at the same time, addressing the issues of security of supply, environmental concerns and assistance for those individuals, groups or regions in need.

In past oil crises, one of the first alternatives that Canadians and Americans turned to was the substitution of natural gas for oil. In Canada we did this with considerable effectiveness under the National Energy Program. Lloyd Bentsen of Texas, the Democratic vice-presidential candidate, is quoted in the press of September 11 as saying that the increased use of natural gas is one of the initiatives needed to halt the growing U.S. dependence on foreign oil.

One may reasonably conclude that the next oil crisis will similarly cause an extraordinary demand for natural gas. To the extent that we have left essential service customers unprotected, the federal government will be required to reinstate export regulation, if it can. The public will demand it of government.

Given the erosion of NEB regulatory authority to protect Canadian gas consumers, the rationale for the recommendation of the Standing Senate Committee on Energy and Natural Resources for ten-year contracting to protect the core market becomes apparent. That erosion in NEB authority under the implementing legislation is very real indeed.

A legal opinion prepared for the committee concludes that, should Bill C-130 be enacted, the board's regulatory function in relation to gas exports would be materially altered. Under proposed sections 84.3 to 84.6, the board would no longer have the authority to limit exports to the United States on grounds of short- or long-term supply shortages, if the export restrictions it intended to impose contravened the rules set out under Article 904 of the agreement respecting proportionality, non-discriminatory pricing and traditional channeling of supplies. Under clause 137 of the bill, the imposition of such restrictions can be ordered by declaration of the Governor in Council and, if no declaration is made, the board has to grant the export application even if the limits allowed under the surplus test might thereby be exceeded.

GATT allowable trade restrictions notwithstanding, the fact remains, if clause 137 were enacted, the board's existing authority to place restrictions on or deny gas exports to the U.S. for reasons of shortage would devolve entirely upon the Governor in Council. It would be up to the Governor in Council to impose the appropriate restrictions in accordance with the limitations set out under Article 904. If cabinet decided against restrictions, the board would appear to have little option but to grant the export application, even though this might jeopardize the reasonably foreseeable gas needs of Canadians.

What type of energy partner would Canada be tying itself to in the Free Trade Agreement? In its most recent fact sheet on "Oil and Gas Reserve Disclosures: 1983-1987", Arthur Andersen & Co. observes that the 1987 replacement of U.S. oil and gas reserves was only 45 barrels of new oil discovered for each 100 barrels produced and only 44 per cent of the natural gas produced. In only one year out of the last ten has the U.S. petroleum industry managed to establish more oil reserves than it produced; and in only two years out of the last ten has the industry added more gas reserves than it produced.

The prime hydroelectric sites in the United States have been exploited. The last surviving order for a new nuclear reactor was placed in 1973, and the nuclear power program is in disarray today. Although the United States possesses huge reserves of coal, the environmental impact of burning coal to generate electricity has created strong public resistance to construction of new coal-fired generating stations. Until 1970, when U.S. oil output peaked, energy supply and demand were not far out of balance in the United States. Since then the U.S. has suffered a persistent shortfall in domestic energy supply, reflected particularly in its imports of oil.

The Reagan administration has presided over the demise of the Synfuels Corporation and the dismemberment of much of the American solar energy R&D program, contributing to the growing energy difficulties in that country.

The energy options report asserts that "... as the advisory committee sees it, an informed and vigilant Canadian government remains fully empowered to ensure that exports to U.S. markets do not exceed long-term sustainable levels." This implies that Canada retains the authority to restrict energy exports. Can Canada, in fact, apply some form of surplus test as a basis for justifying export restrictions?

According to the U.S. Statement of Administrative Action, tabled in Congress with the U.S. implementing legislation, the "National Treatment" obligation set out in chapter five of the Free Trade Agreement applies to all parties to the agreement, including federal and state governments and their corresponding regulatory agencies.

The statement goes on to say, on page 49, that:

> Practices forbidden under the national treatment obligation would include, for example, discriminatory internal taxes, or a domestic rule in either nation imposing an internal quantitative requirement that a specified portion of natural gas or electricity needs be supplied from domestic sources, or that no foreign coal or oil can be marketed to domestic buyers, unless the measure can be

justified under an exception (such as for government procurement).

The statement further observes, on page 56, that the national treatment obligation also applies at the state and provincial levels.

The American point of view is that a surplus test employed to restrict export sales is not permissible under the Free Trade Agreement in any event.

If the Reagan administration is interpreting the agreement correctly, and there is some reason to believe that it is, then the Energy Options Advisory Committee could find itself opposing the energy provisions of the agreement. As the advisory committee states on page 51 of the energy options report:

> The advisory committee feels that the potential limitations on government authority to manage export volumes in the short term that are implied by proportional access are not a significant practical concern. If Canadian buyers hold back during normal market operations and thereby allow U.S. buyers an increasing share of Canadian supply; or if a temporary demand surge is translated into a sustained and significantly higher level of demand, then the question is: Does proportional access limit the authority of the Canadian government (or its agencies) to protect what it decides are long-term Canadian energy security interests?
>
> In the advisory committee's judgment, the answer is no. The Canadian government retains the authority to protect Canadian interests, if necessary. Were this not the case, the committee feels that the price of accepting the notion of proportional access might be unacceptable.

If the U.S. interpretation is correct, does this mean that Canadians begin lining up at gasoline pumps on the same day as Americans if there is another disruption in international oil supply? It certainly implies that Alberta could no longer provide preferential treatment to its own provincial energy consumers, and it suggests that Alberta's ethane policy may have to be abandoned.

The difference in regulatory approach between Canada and the United States is evident in the implementing legislation. Section 84.2, paragraph (1), of Bill C-130, the Canadian implementing legislation, specifically makes the National Energy Board subject to the Free Trade Agreement when it states: "In exercising its powers and performing its duties, the board shall give effect to the agreement." The U.S. legislation makes no reference at all to the Federal Energy Regulatory Commission.

The American "Statement of Administrative Action" concludes, on page 56 in its discussion of the energy chapter, that:

> Both FERC and the ERA (Economic Regulatory Administration) have discretion to adhere to old policies or adopt new ones. This discretion is fully consistent with the FTA so long as these agencies perform in a way that does not discriminate on the basis of nationality of the gas or electricity supply and otherwise conforms with the rights and obligations of agreement.

The statement observes that FERC opinion 256 and order 500 are fully consistent with the Free Trade Agreement and that its implementation ". . . does not require the FERC to change either action, in any particular way, or at all."

By way of explanation, order 256 has to do with the passing on—the so-called "as billed" issue—of certain costs as part of the transportation component. It was disallowed by FERC and, as a result, has cost Canadian gas producers a considerable amount of money. As you will see in a moment, it was something that Canadian gas producers thought would be addressed in the Free Trade Agreement.

● (1630)

Furthermore, because of FERC's "*ex parte* communication" rule, which is designed to reinforce the commission's independent status, it does not even have to be a party to any Canadian-U.S. consultation on energy regulation, even though that consultation may be the result of a FERC ruling.

I question the extent to which the Free Trade Agreement and its implications are being accurately portrayed to the Canadian public. Let me illustrate that with the "as-billed" issue. To explain again, that is an issue in which the U.S. Federal Energy Regulatory Commission disallowed, by order 256, the pass-through of certain costs by Canadian gas suppliers to U.S. purchasers. The result is that Canadian producers receive a smaller netback on sales of natural gas.

On page 142 of the Canadian version of the Free Trade Agreement, one reads in the preamble to chapter 9, entitled "Trade in Energy":

> . . . if discrimination inconsistent with this agreement results from a regulatory decision, direct consultations can be held with a view to ending any discriminatory action, such as the decisions earlier this year (1987) by the Federal (Energy) Regulatory Commission prohibiting Canadian suppliers of natural gas from passing all their shipment costs on to their customers.

There is no ambiguity there. FERC's regulation on the as-billed issue is held up to the Canadian public as a prime example of the type of discriminatory action subject to Canadian-U.S. consultation under the agreement.

What, then, does one make of the subsequent letter of April 18, 1988, from Ambassador Gotlieb to Senator J. Bennett Johnston, chairman of the U.S. Senate Committee on Energy and Natural Resources? In that letter the ambassador states:

> The Canadian government does not view FERC's as-billed decision as being inconsistent with or affected by the Free Trade Agreement. I can assure you that the Canadian government has no plans to use the agreement to overturn FERC's existing as-billed decision (Opinion 256).

In how many other instances has the government been mistaken in portraying the issues involved in the Free Trade Agreement to the Canadian people?

Let me close by reiterating my support for the position that the Senate Energy Committee has taken in providing security of gas supply for essential-service customers in Canada. Long-term contracting would achieve that security while allowing market forces to operate in a deregulated environment.

I am not reassured, however, by the Reagan administration's opinion of what the Free Trade Agreement implies for the Canadian gas sector. The Energy Options Advisory Committee is certainly right when it says that Canadians must be vigilant. That vigilance must, I suggest, be directed toward our own policy makers.

In an article in the fall issue of *Foreign Affairs*, quoted by the *Calgary Herald* of September 8, Daniel Yergin of Cambridge Energy Research Associates in the United States said:

> To talk of uncertainty in assessing energy security is not to avoid the issue, but rather to face the fundamental reality.

That quotation goes to the heart of my concerns about the deficiencies in current Canadian energy policy. Rather than a series of unrelated, election-eve pronouncements by the federal government for funding Hibernia and the Lloydminster upgrader, as well as a partial reinstatement of energy R&D programs that this government itself eliminated earlier in its term, Canada needs a comprehensive, consistent energy policy that acknowledges the uncertainties in our future energy affairs and contains plans to accommodate those uncertainties.

An appropriate national policy would incorporate the core market recommendations of the Senate Energy Committee and the earlier proposals made in the committee's 1986 report on oil marketing.

The current government has changed its non-interventionist position taken in 1984 and now acknowledges that market forces alone do not, and cannot, constitute adequate federal energy policy. That acknowledgement is implicit in its recent ad hoc interventionist announcements. What is still missing, however, is a comprehensive policy framework within which one could judge whether or not these government initiatives provide good value to Canadians.

On motion of Senator Hastings, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX "A"

(*See p. 4404*)

PATENT ACT

BILL TO AMEND—REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

WEDNESDAY, September 14, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

THIRTY-SECOND REPORT

Your Committee, to which was referred the Bill S-15, An Act to amend the Patent Act, has, in obedience to the Order of Reference of Tuesday, June 21, 1988, examined the said Bill and now presents its interim reports as follows:

In dealing with this reference, the Committee heard testimony from: officials of the Department of Consumer and Corporate Affairs; representatives of the Canadian Drug Manufacturers Association; Novopharm Ltd.; Green Shield Prepaid Services Inc.; Musial, Taciuk and Associates; Smith, Kline & French Canada Ltd.; and the Canadian Pharmaceutical Association. The Committee also had access to drug pricing information provided by the governments of Saskatchewan, New Brunswick and British Columbia.

A number of other witnesses, including the Pharmaceutical Manufacturers Association of Canada, expressed their desire to appear with respect to the Bill; however, the Committee's limited schedule made it impossible to make appropriate arrangements to hear from them at this time.

BACKGROUND

Bill C-22, an Act to amend the *Patent Act*, was given Royal Assent on November 19, 1987. In addition to making a number of technical changes to the *Patent Act*, this statute (hereinafter referred to as Bill C-22), alters the so-called compulsory licensing system for patented medicines by establishing certain time periods before which a compulsory licence would become effective.

Bill C-22 also provides for the creation of the Patented Medicine Prices Review Board (the Board) to monitor the drug prices set and the research and development undertaken by the innovative pharmaceutical industry. As part of its mandate to examine drug prices, the Board is empowered to determine whether the price at which a patented medicine is being sold is excessive and to impose penalties on the patentee of that medicine when the price is found to be excessive. When overpricing occurs, it may order a patentee to reduce the price or remove a patentee's market exclusivity.

The Bill requires the Board to take a number of factors into consideration when determining whether a price is excessive. Included among these are: prices in preceding years, prices of medicines in the same therapeutic class and in other countries and the Consumer Price Index (CPI).

There has been considerable discussion about the possible effects of Bill C-22 on drug prices and the ability of the prices review board to ensure that prices are not excessive. Both the Minister of Consumer and Corporate Affairs and the Pharmaceutical Manufacturers Association of Canada (PMAC) have publicly declared that they expect the Board to produce a downward pressure on drug prices. Moreover, in past testimony before this Committee, the PMAC was of the view that annual price increases would be limited to the Consumer Price Index.

Bill S-15, introduced in the Senate on February 10, 1988, would amend certain provisions of the *Patent Act* relating to the Patented Medicine Prices Review Board. Price increases occuring after June 27, 1986 would be subject to the scrutiny of the Board. The Bill would require the Board to examine the prices at which patented medicines are sold in Canada on an annual basis and to make a determination as to whether these prices are excessive. Prices would automatically be excessive whenever their rate of increase exceeded that of the Consumer Price Index.

If a price is excessive, the Bill would require the Board to take remedial action. It could remove a patentee's market exclusivity or order the price of the medicine to be reduced to a level that is not excessive. In addition, the Board could limit future price increases in order to recoup a price overcharge. Thus, Bill S-15 would make the CPI the governing factor in matters relating to prices and oblige the Board to act whenever a price increase exceeds the rate of increase in the CPI.

DRUG PRICES

When Bill C-22 was being debated in Parliament, a wide variety of views were expressed with respect to its ultimate impact on drug prices in Canada. Opponents of the Bill argued that prices would increase dramatically while supporters claimed that the creation of the Patented Medicine Prices Review Board would moderate price increases, despite increased periods of exclusivity granted to brand-name drugs. Indeed, the Minister of Consumer and Corporate Affairs, the Hon. Harvie Andre, stated on numerous occasions that the Board would keep price increases in line with the rate of inflation. Bill S-15 requires the Board to use just such a yardstick in judging drug price increases. Moreover, as mentioned above, the PMAC expressed its view that the Board would limit price increases to the overall rate of inflation.

The Committee has not yet been able to undertake a complete examination of drug price increases in Canada. We have, however, had access to data from several sources upon which some preliminary observations can be made.

The Committee heard a considerable amount of evidence on recent trends in drug prices. Most of the evidence indicates that in the past year drug prices have increased at rates in excess of the rate of increase in the Consumer Price Index. Representatives of Green Shield Prepaid Services Inc. (Green Shield), a large Ontario-based prescription drug plan, told the Committee that for the period from January 1, 1987 to January 1, 1988 the average ingredient cost of the prescriptions filled under its plans increased by 12.6%. (This figure includes some medications that are not subject to patents but does not include the pharmacist's dispensing fee.) Green Shield also noted that from January 1, 1988 to the end of June of this year its average ingredient cost increased a further 9.41%. It is not clear to the Committee that these increases in average ingredient cost represent price increases of the same magnitude. A change in the pattern of consumption of drugs, to those with higher prices, would increase the average ingredient cost even though there may be no change in drug prices. Changes in average ingredient cost, therefore, may not accurately reflect price changes.

Representatives from the Canadian Drug Manufacturers Association (CDMA) and Novopharm Ltd. indicated that over the past few years price increases for generic drugs have been a relatively modest 3%-4%, although they noted that some generic products have undergone substantial increases because competitive discounting had reduced prices to levels which the Association described as being too low. One example of such an increase, cited by Novopharm, is the rise in the price of Diazapam to $5.60 from $2.30 for 1000 5mg tablets.

In its brief to the Committee, the CDMA noted that the July, 1988 Ontario Drug Benefit Formulary reported that the prices of 834 of the drugs listed in the formulary increased by more than 5% when compared to the prices listed in January of 1988. The CDMA then went on to compile a list of thirteen brand-name drugs with the highest increases listed in the July formulary. Price increases for these drugs, for the period July 1987 to July 1988, ranged from a low of 5.05% to a high of 18.3%. The CDMA also reported that, last year, the New Brunswick prescription drug plan recorded a rise of 7.3% in the cost of brand-name drugs and 2.6% in the cost of generic drugs.

The Committee heard testimony from Mr. Paul Roache, the president of Smith Kline & French Canada Ltd. on the most recent changes in that company's drug prices. As of July 1988, three of Smith Kline's products, representing approximately 55% of its current sales by value experienced price increases of 4%. This was the first price increase in over two years for these particular products. In January of 1988 the prices of the majority of the company's products increased by 6% over the January 1987 price.

There is no doubt that increases in the prices of many brand-name medicines have occurred since the passage of Bill C-22 and, indeed, since June 27, 1986, the operative date for the restrictions on compulsory licences. The question then arises as to whether those increases can be linked to that bill.

Officials of the Department of Consumer and Corporate Affairs expressed the view that if price increases exist, there is nothing to connect them to Bill C-22. Green Shield felt that it was too early to say if there is a direct linkage between the price increases that it has experienced and the bill. The CDMA, on the other hand, believes that the recent price increases are connected to Bill C-22 but did not present the Committee with any hard evidence in support of that belief.

Consumers are concerned with the prices that they pay for prescription medicines, either directly or indirectly through drug insurance plans. That is, they are concerned with retail prices. The Committee is ultimately concerned with the impact that Bills C-22 and S-15 may have on such prices, but our immediate interest is with prices charged by manufacturers, since it is these which are under the jurisdiction of the Board. The Committee notes that an examination of the Statistics Canada index of industry selling prices of the pharmaceutical industry indicates that these prices are indeed increasing faster than the rate of inflation; but that no obvious effect of Bill C-22 is evident.

The Committee has had access to information provided by some of the provincial pharmacare programs. The Minister of Health for the province of British Columbia indicated that "...drug cost increases for 1987 over 1986 averaged 7.2 per cent for brand name products and 6.3 per cent for generic products." Our analysis of the 80 largest selling drugs in Saskatchewan indicates that they rose in price at twice the overall rate of inflation from the second half of 1986 to the first half of 1988. While the Consumer Price Index increased by 5.9% over this period, drug prices increased by 11.77%. Several drugs increased in price by over 20% and one increased by more than 200%. The Committee could not include the July 1988 pricing data, but indications are that these increases were very small.

The province of New Brunwick has also submitted data from the New Brunswick Prescription Drug Program. These data were supplied for three 12 month periods, July 1985-June 1986, July 1986-June 1987, and July 1987-June 1988. Total increases in material costs were just over 20% for the entire period under consideration. This figure should be interpreted carefully as it may also be affected by changing consumption patterns not just price changes.

Whether price increases can be linked to Bill C-22 or not, another important aspect of this issue is whether prices are increasing significantly faster than the Consumer Price Index. After all, the Minister and the PMAC both gave Parliamentarians the impression that such would not be the case. The statistical evidence available to the Committee does indicate that this is the case, although we do have reservations about some of the evidence presented to us. For example, the Consumer Price Indexes for prescribed drugs and for medicinal and pharmaceutical products both indicated very large price increases starting in the summer of 1987. These increases, however, were mostly illusory. Changes in the re-imbursement policies of the Saskatchewan Prescription Drug Plan distorted these price indices and gave a false impression of price changes.

A similar problem existed with respect to other pricing data made available to the Committee. Price increases by Smith Kline & French Canada Ltd. from 1987 to 1988, compiled from the company's price lists, were overstated by about 10%. According to the company's president, this overstatement resulted from a change in the distribution method employed by the company. The normal wholesaler's mark-up of 10% was erroneously interpreted as a price increase.

Despite these difficulties with the data, it is evident to the Committee that drug prices continue to increase at rates which exceed inflation by 2 to 3 percentage points. This is not as great an increase as has been suggested by some critics of Bill C-22, but it does suggest that the Board has not yet been able to live up to the claims of the Minister.

POWERS OF THE PATENTED MEDICINE PRICES REIVEW BOARD

As mentioned earlier, Bill S-15 would make the CPI the principal factor against which the prices review board would judge brand-name drug prices and require the Board to take action to reduce a price or remove exclusivity whenever the price of a medicine increased by more than the relevant CPI increase.

In commenting on the powers of the Board as set out in Bill C-22, some witnesses felt that the Board would be ineffective in controlling drug prices. One witness was of the view that the Board presents the illusion that prices will be contained. Indeed, as we point out in this Report, drug prices have continued to rise faster than the rate of inflation.

Witnesses who were of the opinion that the Board lacked the necessary power to effectively control drug prices felt that Bill S-15 would go some way to rectifying this. However, the provision which would automatically declare a price to be excessive if its rate of increase exceeds that of the CPI was considered by some to be too inflexible. It was suggested that the Board must have some discretion, for it is inevitable that situations will arise where such a price increase is necessary and justified. The CDMA, whose products are not patented and are therefore not subject to scrutiny by the Board, objected to this provision. Evidently, it fears that provincial drug formularies might limit its drug price increases in the same way that the Board would limit price increases for brand-name drugs. The requirement that the Board either remove exclusivity or order a price reduction if a price increase is excessive was viewed favourably by a number of witnesses. This, it was felt, would allow the Board to control drug prices more effectively.

Further studies and additional witnesses should and will be before the Committee in due course. Thereafter, the Committee will make a final report on Bill S-15.

Respectfully submitted,

IAN SINCLAIR
Chairman

APPENDIX "B"

(*See p. 4404*)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-FOURTH REPORT OF STANDING COMMITTEE

WEDNESDAY, September 14, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTY-FOURTH REPORT

On Tuesday, July 5, 1988, Senator Hazen Argue rose in the Senate on a question of privilege about certain allegations that had been made in press reports.* The Standing Committee on Internal Economy, Budgets and Administration, consequently, undertook to investigate the matters raised. The Committee appointed a Sub-Committee to inquire into the allegations against Senator Argue. The Sub-Committee subsequently prepared a report dated July 28, 1988 for the full Committee. On August 25, 1988, the Committee met with Senator Argue and his counsel, Mr. John P. Nelligan, to obtain the Senator's response to the Sub-Committee's report. At that time, Mr. Nelligan provided written submissions to the Committee on behalf of Senator Argue.

This report is divided into three parts. The report of the Sub-Committee is printed as Part I. While this document was prepared solely for the use and consideration of the full Committee, the Committee has decided to include it at this time, because its contents have become known, and it forms the basis for Senator Argue's response. The submissions of Senator Argue are included as Part II of this report. The Committee's conclusions and recommendations constitute Part III.

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* The first of a series of articles containing allegations against Senator Argue appeared in *The Ottawa Citizen* on June, 3 1988. On June 13, 1988 the *Citizen* wrote a letter to the Clerk of the Senate requesting copies of reports on Sentor Argue's use of Senate supplies and services, and asking for specific information. The Senate Finance department prepared a report for the Standing Senate Committee on Internal Economy, Budgets and Administration, and this document was discussed by the Committee on June 30, 1988. Senator Argue raised his question of privilege in the Senate on July 5, 1988, and on July 7, 1988, the Committee appointed the Sub-Committee to inquire into the allegations raised.

PART I

Thursday, July 28, 1988

The Sub-Committee, established to examine and report on the allegations made against Senator Argue, has the honour to present its report as follows:

Your Sub-Committee received its Order of reference on July 7, 1988 and held its organization meeting on July 12, 1988. The following Senators served on the Sub-Committee: The Honourable Senators Cochrane, Lewis, Marchand, McElman and Nurgitz. A total of fourteen witnesses, all Senate employees, gave fifteen hours of testimony and several hours were also spent deliberating on the Report.

Your Sub-Committee felt that the most efficient way to proceed was to conduct its proceedings in an informal manner. The Sub-Committee felt the overriding objective was to discover the facts surrounding the allegations made. Most of the allegations were related to the nomination campaign of Mrs. Argue as candidate in the next federal election. The allegations dealt with a number of subjects: (i) language training; (ii) photocopying; (iii) taxi vouchers; (iv) telephones; (v) messengers; (vi) supplies; (vii) postage; (viii) research assistance; (ix) secretarial and clerical assistance; and (x) abuse of Committee chairmanship privileges.

Your Sub-Committee reports its findings as follows:

(i) Language Training: Evidence adduced by the Committee confirms that Robin Russell, a contract employee of Senator Argue, received language training from a private school in lieu of Senator and Mrs. Argue. The language school attested in a letter that the substitution was done at the request of Senator Argue. The Senate Policy on Official Languages does not provide language training to employees under contract.

Consequently, your Sub-Committee recommends that the Senate recover from Senator Argue the cost of the language training for Mr. Russell, totalling $3,570.00 of which

$1,708.00 should be payable to the Receiver General of Canada and $1,862.00 payable to the language school.

(ii) Photocopying: Your Sub-Committee heard evidence and was provided with copies of the several requests made by the office of Senator Argue since February, 1988. Even though concerns were raised about some of the requests not being directly related with Senate business, those relating to Mrs. Argue's campaign were a clear abuse of the Senate Printing Services. Some of the examples provided to the Sub-Committee were 60,000 copies of a letter "The Argues in Nepean", five copies of "The 1984 Greater Ottawa City Directory", three copies of the "List of Electors in Nepean". the cost of the printing of these campaign documents is assessed at $1,065.28.

It is therefore recommended that Senator Argue repay the amount of $1,065.28 to the Senate, for the cost of photocopying campaign material.

(iii) Taxi Vouchers: Your Sub-Committee was provided with reports on the use of taxi chits by the Office of Senator Argue from the period of October 1st, 1987 to June 30th, 1988 inclusive. The total cost of these vouchers is $3,449.90 of which $1,240.50 relates directly to the costs of taxis being taken to and from the address of the campaign headquarters. It should be noted that books of taxi chits were issued by the Gentleman Usher of the Black Rod to Senator Argue at his insistance. It was pointed out to the Sub-Committee that no other Senator had benefitted of this privilege of having free access to taxi vouchers. The Sub-Committee was unable to obtain precise information on some of the other destinations but notes that the Clerk of the Senate has already undertaken to meet with Senator Argue to determine if some of the taxis were for Senate business. Senator Argue, of his own volition, issued a cheque in the amount of $3,149.00 dated June 22, 1988, leaving a balance of $300.90 unanswered for.

It is noted that considerable expense to the Senate in the misuse of messenger services is also involved, in addition to the actual cost of taxi fares.

Consequently, it is recommended that the Clerk of the Senate and Senator Argue meet at their earliest convenience to determine the exact amount that is owed or has been overpaid to the Senate. In calculating the said amount, the Clerk will include the calculated cost of messenger services used for non-senatorial purposes.

(iv) Telephones: Senator Argue's Office was already equipped with three telephone lines. Your Sub-Committee received evidence that four additional telephone lines were installed in the Senator's office, in November 1987; two of these were later removed in February, 1988. The cost of these additional phones is $972.12. On December 10, 1987 Senator Argue, in a memorandum to the Gentleman Usher of the Black Rod, indicated that he wished to pay all costs of installing and carrying the recently installed four telephones. The Gentleman Usher of the Black Rod testified that inadvertently he had not pursued the matter.

It is recommended that Senator Argue remit to the Receiver General of Canada $972.12.

(v) Messengers: Evidence was received that messengers were extensively used by the Senator's Office and that some of the work they performed was beyond their normal duties. Messengers were used in the "stuffing" of envelopes for the campaign. Evidence was given that as many as five messengers would be asked, at a given time, to perform this task in unscheduled and unauthorized Senate office space. Messengers also ran errands via taxis to the campaign headquarters. Evidence was also given that messengers were used for work of a personal nature.

Your Sub-Committee feels that the use of Senate Messengers was grossly excessive. However, your Sub-Committee is unable to arrive at a dollar value of the cost to the Senate of this abuse of Messenger service by Senator Argue's Office.

(vi) Supplies: Evidence was received that an excessive volume of supplies was used by the Senator's Office, especially since January 1988. Some examples of these items, as per the testimony heard, include: boxes of file folders, boxes of pens on a daily basis, weekly orders of packages of photocopy paper, as well as frequent requisitions for MICOM labels, as many as 40,000, elastic file folders, recording cassettes in boxes of 10, batteries and tape recorders. Since there is no developed policy for the Senate Stores to keep an inventory control of its office supplies, your Sub-Committee is unable to arrive at the cost of supplies taken by or on behalf of Senator Argue. However, one record, dated December 13, 1985, was made available and shows that a Senate typewriter was delivered to the Senator's home in Saskatchewan. According to available information, the typewriter has not yet been returned.

Your Sub-Committee feels there has been an obvious and clear misuse of Senate supplies by the Senator. Your Sub-Committee recommends that the Senate typewriter delivered to the Senator's home either be returned or that the cost of the machine be recovered by the Senate.

(vii) Postage: Evidence was given that the Senator used his mailing privileges to send out bulk/householder mail through the Senate post office, relating to Mrs. Argue's campaign. It is noted that this mailing privilege is not available to Senators. Your Sub-Committee feels there was an abuse of the Senator's mailing privileges in this regard. Your Sub-Committee notes that the Senator paid $66.96 for the bulk/householder on March 7, 1988. If such a mailing had been performed at commercial rates, the cost would have been $2,132.00 (26,000 X 8.2¢).

(viii) Research Assistance: Evidence was given that seven students were hired through Senate Personnel and assisted in a telephone survey to residents of Nepean in connection with Mrs. Argue's campaign. No evidence was received that at the time of hiring, the Senator informed Personnel that he would pay for their services himself. On May 31, Senator Argue informed Personnel Management that he would be sending a cheque of $502.60 to pay for the services of these students and asked Personnel to acknowledge that they had received it on May 27. The cheque was received on May 31st.

Your Sub-Committee feels that Senator Argue compromised senior staff of the Senate by asking on May 31 that they acknowledge receiving the cheque on May 27 and, further, that the hiring of the seven students constituted a clear misuse of the services offered by the office of Senate Personnel.

(ix) Clerical and secretarial help: Evidence was given that Senator Argue follows a practice of hiring a number of people on short-term contracts rather than spending his secretarial allocation on one person.

Your Sub-Committee notes that Senator Argue is the only Senator who follows this unusual practice. Your Sub-Committee did not ask for any evidence from these part-time employees.

(x) There is no evidence that Senator Argue benefitted personally from his position as Committee Chairman and any allegations to that effect are unfounded.

PART II

SUBMISSIONS TO THE STANDING SENATE COMMITTEE ON INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION ON BEHALF OF THE HONOURABLE HAZEN ARGUE WITH RESPECT TO THE REPORT OF THE SPECIAL SUB-COMMITTEE DATED JULY 28TH, 1988

Senator Argue is concerned that the report of the Sub-Committee due to its unfortunate leak to the press has acquired a stature which is unwarranted by the circumstances. Its function was to examine and report on allegations made against Senator Argue but those allegations were never precisely defined. Until this last meeting of the full Committee, they were never discussed with Senator Argue. The witnesses who were heard were questioned informally. They were not sworn and Senator Argue had no opportunity to ask any questions. The "findings" which are therefore reported are at best preliminary and can only be dealt with by the full Committee in conjunction with the response of Senator Argue. Even then, of course, Senator Argue has had no opportunity to test the accuracy of some of the evidence heard in camera by the Sub-Committee.

A great deal of the material before the Sub-Committee dealt with Mrs. Argue's nomination campaign with respect to the next federal election. Senator Argue has never denied that he provided assistance to his wife in connection with her campaign. He provided that assistance in good faith and in the belief that he was within the scope of his activities as a Senator. It was never his intention to receive any benefit to which he was not entitled or to deceive any member of the Senate or the Senate staff with regard to the purpose for which the various expenditures were made.

He has accepted the position of the Sub-Committee that expenditures related to Mrs. Argue's campaign are not appropriately charged against Senate expense and has been endeavouring since the issue arose to repay any amounts involved after consultation with Senate staff as to the precise amounts. He is concerned however at any suggestion that there was any deliberate attempt on his part to mislead the Senate or to deliberately seek to obtain benefits which he knew were not authorized. He would ask that the Committee deal specifically with this point and further, to assist himself and other Senators in the future, redefine the areas of discretion available to a Senator in carrying out his Senatorial duties.

Dealing with the specific findings of the Sub-Committee, our position is as follows:

(i) Language Training: there is no dispute that Senator Argue asked the language school to provide language training for a contract employee Robin Russell. This was done because the contract employee had had his language training interrupted in the past and was anxious to pursue the studies while working part-time for the Senator. The Senator was not clear as to the rights of contract or other employees to this training, a confusion which seems to exist in the minds of other Senators as well. The important point is that at no time did he instruct anyone to submit invoices in the name of anyone but Mr. Russell. The invoices were sent to the Senate staff and at no time did anyone on the Senate staff phone him to tell him that Mr. Russell could not take the lessons or conversely that Mr. Russell or the Senator were responsible for the account. Although he is still not in receipt of any account, Mr. Russell has forwarded a cheque to the Senate for the sum mentioned in the report although it is not clear whether or not this includes duplicated accounts.

(ii) Photocopying: Prior to obtaining the photocopying of the Nepean letter, Senator Argue discussed it with the Clerk of the House and received authority to do so. He had no intention to contravene any guidelines or limitations on use by the Senate and was prepared to accept the Clerk's decision. Since the Sub-Committee is of the view that this use of House facilities exceeded those allowed he has already repaid to the Senate the amount identified in the report.

(iii) Taxi Vouchers: Senator Argue agrees that he has requested taxi chits from Mr. Réal Gagnon, the Director of Messenger Services but was unaware that whole books of chits were kept available in his office. He agrees that it is not appropriate that individual Senators have free access to vouchers in this way. He apologizes for any excesses in which his staff may have engaged in. He has already reviewed the particulars of all of the taxi vouchers and reached a settlement with Mr. Lussier. It would appear that the amount actually paid by him, is more than the amount required and adjustments can be made at the end of these proceedings.

(iv) Telephones: There seems to be no dispute over this item but the Senator asks that you note particularly that there was never any attempt here to obtain telephones at Senate expense beyond those to which he was normally entitled. The problem here seems to be an oversight in the administrative part of the Senate with respect to sending him a bill for the additional phones.

(v) Messengers: The Senator agrees that he uses messengers extensively and has done so for many years. The duties they have performed have included the stuffing of envelopes. The Senator was not aware of any stuffing of envelopes for the campaign but it is probable that they did do some work associated with the preparation of the challenged letter. He has had the practice over many years of using unused Committee rooms when they are not required for another purpose and if this is not acceptable it is suggested that more precise rules be made available to all members of the Senate.

He denies that he used messengers for work of a personal nature other than for those petty tasks which have traditionally been performed on behalf of Senators. He has used messengers in their off time to cut grass and perform other household chores but always for compensation in order to assist the messengers in augmenting their income.

If this Committee feels that there should be some allocation of costs which respect to that portion of the messengers' work which relates to the campaign letter he is quite prepared to accept any ruling which the Senate might make as to reimbursement.

(vi) Supplies: The evidence adduced against the Senator on this ground is difficult to deal with having regard to the total lack of records in the supply office and the general numbers given by the Supply Clerks in their informal testimony before the Sub-Committee. Senator Argue was not aware of any excessive uses and in particular could not explain how 40,000 MICOM labels could have been used by him or with regard to his wife's campaign. The mailings used for that campaign were done on a computer from her campaign office and there was no need for such labels. There is no doubt that some 10,000 labels might have been used by him in his regular Senatorial mailings over the last year and a check in his office has indicated that there are some 11,500 labels kept in his office in storage now. If the Senate wants them back, they can have them. A possible clue as to the discrepancy may be found in the evidence of the store clerks. They testified that there were 5,000 labels in a box. The boxes of Micom labels still in Senator Argue's office, with the exception of one partially used box of 5,000, are boxes of 2,500. If the number of boxes received by him contained half the number the witnesses estimated, all of the labels can be accounted for.

The recording cassettes in boxes of ten apparently relate back to the time when he was a Minister when is was the practice for all Ministers to ensure that every conversation they had with the press was tape-recorded. At the present time he has two tape recorders which he purchased himself over the last six months and two more which were

obtained from Senate stores, one of which was signed for by a member of his staff. No tape recorders were ever used in connection with his wife's campaign.

The typewriter for which he signed was sent by the Senate Office to Regina so that he could use it in an office in his own home. It was never suggested to him that this was not a permissible use of Senate equipment. In any event the typewriter has been returned to Ottawa and it has now been returned to Senate stores.

(vii) Postage: The Senator has filed with the Committee a copy of the directive from the Postmaster General in 1972 which relates to bulk/householder mail. There appears to be no restriction on that use to distribution in a particular constituency. There is no suggestion in that directive which suggests that the privilege is not available to Senators. The mail was delivered in good faith to the Post Office and the Senator paid the postage stipulated by the Postmaster.

Since the hearing, Senator Argue has found a copy of an invoice for postage indicating he shipped 400 lbs. of household mail in this fashion through the Senate Post Office. At that time he was Minister responsible for community grants in Saskatchewan and used this means to inform citizens of recent grants in their locality. A copy of this document will be filed with the Clerk. The new Postmaster testified he had been notified of a change in the old practice a week before the Sub-Committee hearing. At the time of the contested mailing no one suggested it was not still in effect.

(viii) Research Assistants: Senator Argue requested Senate personnel to assist him in finding students to help as research assistants. As a result of the Senator's first discussion with Mr. Jarvis he understood that he would ultimately be required to pay these students himself. This understanding was subsequently confirmed in a discussion between Mr. Jarvis and Mr. Robin Russell, a member of the Senator's staff. Senator Argue has no recollection of asking the staff to acknowledge that they had received the cheque earlier than they had. His only intention at the time he received the phone call from the Senate staff was to ensure that they received the monies which he always intended to pay without undue delay to avoid them any embarrassment.

(ix) Clerical and Secretarial Help: It is acknowledged that Senator Argue has had a number of people on short-term contracts. As the Chairman of the Sub-Committee pointed out however, these have always fallen within his proper allocation and at no time has he expended more money on staff than that permitted under the Regulations.

PART III

CONCLUSIONS AND RECOMMENDATIONS

Your Committee considered it imperative to conduct an inquiry into the facts underlying the allegations against Senator Argue, and, for this purpose, appointed the Sub-Committee. Your Committee wishes to express its appreciation to the members of the Sub-Committee for undertaking a difficult task, and for the report they produced. The Sub-Committee saw its function as that of finding the facts, and presenting its conclusions to the parent Committee. The Sub-Committee decided that the proceedings should be kept informal, and that the employees would not be required to testify under oath; moreover, because of the sensitive nature of the matters under discussion, and the concern that employees might feel inhibited , the Sub-Committee chose to interview the employees in the absence of Senator Argue. Senator Argue accepted this procedure; he did not attend meetings of the Sub-Committee, as is his right as a Senator, but, subsequently, reviewed the transcripts of the hearings of the Sub-Committee. The Committee deplores the fact that the Sub-Committee report was published - which publication took place without authorization - before Senator Argue had had an opportunity to review it or respond. Senator Argue responded to the report of the Sub-Committee during his appearance before the Committee on August 25 1988, and his counsel, Mr. Nelligan, also responded to it in his submission, which is included above as Part II.

Having reviewed the report of the Sub-Committee, and the submissions of Senator Argue and his counsel, your Committee generally accepts and supports the recommendations of the Sub-Committee.

While Senator Argue takes issue with some of the details set out in the Sub-Committee's report, he has substantially accepted the conclusions reached. All the amounts that the Sub-Committee recommended that Senator Argue pay to the Senate have now been paid.

The mandate given to the Sub-Committee was to examine the following matters:* (i) language training; (ii) photocopying; (iii) taxi vouchers; (iv)

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* Various questions relating to Senator Argue's travel expenses are being investigated by the Sub-Committee, and will be the subject of a report to the Senate in due course.

telephones; (v) messengers; (vi) supplies; (vii) postage; (viii) research assistance; (ix) secretarial and clerical assistance; and (x) alleged abuse of Committee Chairmanship privileges.

Most of the allegations relate to the nomination campaign of Mrs. Argue as a prospective candidate in the next federal election. The written and oral evidence shows that Senator Argue's use of Senate resources increased appreciably during Mrs. Argue's nomination campaign. Your Committee believes that the use of supplies and services by Senator Argue, or in his name, in the campaign of his wife for a party nomination was inappropriate and unacceptable.

The Sub-Committee, in its questioning of witnesses, was told that no other Senator made requests or demands of a similar nature to those of Senator Argue. Despite repeated warnings, Senator Argue persisted with these demands, and continued abusing his senatorial privileges.

In order to address this problem, as well as the larger issue of ensuring that this sort of misuse of Senate resources does not occur again, the Committee recommends that rules and guidelines regarding the use of Senate services and supplies be reviewed and revised. The Committee has already improved certain administrative procedures, such as instructing Senate employees to refer unusual requests to the proper authorities, and the institution of better inventory control. The Committee recognizes, however, that no matter how detailed or extensive the rules may be, good faith and cooperation are required from all Senators in order for such rules to be fully effective.

It may be that particular allegations against Senator Argue can be explained or excused. Your Committee concludes, however, that taken together they constitute a course of behaviour that is not justifiable, and which cannot be condoned. The Committee deeply regrets that the actions of Senator Argue have reflected so adversely upon the Senate.

Respectfully submitted,

ROMÉO LEBLANC
Deputy Chairman

THE SENATE

Thursday, September 15, 1988

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

Prayers.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Roméo LeBlanc, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, September 15, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTY-FIFTH REPORT

Your Committee recommends the implementation phase of the office automation system, as recommended by the Peat Marwick Consulting Group, for Senators' offices only, as well as the installation of facsimile machines, at a cost not to exceed $250,000. This amount has already been included in the Senate Estimates, 1988-89.

Your Committee also recommends the engagement of consultants to assist with the implementation of the automation system at a cost not to exceed $26,000.

Respectfully submitted,

ROMÉO LeBLANC
Deputy Chairman

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

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

PRIVATE BILL

GRENVILLE AGGREGATE SPECIALTIES LIMITED—REPORT OF COMMITTEE

Hon. P. Derek Lewis, Acting Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, September 15, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-THIRD REPORT

Your Committee, to which was referred the Bill S-21, An Act to revive Grenville Aggregate Specialties Limited and to provide for its continuance under the Canada Business Corporations Act, has, in obedience to the Order of Reference of Monday, September 12, 1988, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

P. DEREK LEWIS
Acting Chairman

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

Hon. Roméo LeBlanc: With leave of the Senate and notwithstanding rule 45(1)(*b*), later this day.

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

Hon. Senators: Agreed.

Motion agreed to and bill placed on the Orders of the Day for third reading later this day.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): 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, 20th September, 1988, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Motion agreed to.

QUESTION PERIOD

THE MINISTRY

REPORTED RESIGNATION OF MINISTER OF AGRICULTURE

Hon. Jack Austin: Honourable senators, I should like to ask the Leader of the Government in the Senate whether any

announcements are to be made with respect to the ministry. Has the Minister of Agriculture resigned, as has been reported on the radio news? Has there been a change in the ministry?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, those announcements would normally be made by the Prime Minister. If there are such announcements coming, I will leave it to him to make them.

Senator Austin: You are not aware that any announcements have been made up until this time?

Senator Murray: Honourable senators, no announcements have been made by the Prime Minister about the ministry at this moment.

Senator Argue: Wait for six o'clock!

Senator Steuart: Five o'clock!

NATIONAL DEFENCE

NUCLEAR-POWERED SUBMARINES—STATUS OF PROGRAM—TRANSFER OF TECHNOLOGY

Hon. Gildas L. Molgat: Honourable senators, my question is to the Leader of the Government in the Senate. When the white paper on defence was produced, one of the elements given high priority by the minister was the proposed purchase of nuclear-powered submarines. Subsequently, the minister undertook a series of travels across Canada, during which he was selling the submarine project. This was the case as well for some members of staff who were on the same task force. Since then a number of statements have been made in which the government has constantly put the project further and further back, although we were assured that an early decision would be made. Could the minister tell us where this matter now stands?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I think my friend misunderstands the situation. The decision has been taken. The white paper on defence was a statement of government policy to acquire nuclear-powered submarines. The decision that has not yet been taken is the country of origin from which we will acquire those submarines. We believe the nuclear-powered submarines are an important element in the future defence policy of Canada, because, without them, we would have a two-ocean rather than a three-ocean navy and would be, in effect, wards of or clients of the United States in our own territory.

Senator Frith: That's coming anyway, with the free trade deal.

Senator Molgat: I take it, then, from the minister's statement, that the policy of the government is still to acquire nuclear-powered submarines.

Senator Murray: Yes, honourable senators. The policy of the government has not changed in that respect.

Senator Molgat: Recently statements have been made by some Canadian defence people regarding new techniques and new methods that could supplant the nuclear-powered submarines. Is the government looking at those? Will it consider those possibilities?

Senator Murray: Honourable senators, I have seen the same news reports as my honourable friend. I will ascertain whether my colleagues in the Department of National Defence have any observation to make on that matter. If they do, I will convey it to the Senate.

Senator Steuart: No matter what they say?

Senator Molgat: Could the minister tell us whether clearance has now been obtained from the United States on the transfer of technology of the British "Trafalgar" class submarine? There was some difficulty as to whether the Americans would allow the British to sell us that submarine. Has that been cleared with the American government?

Senator Murray: Honourable senators, subject to correction, I believe the answer to that question is in the affirmative, but I shall have to verify it.

FISHERIES

CANADA-FRANCE NEGOTIATIONS—AVAILABILITY OF NEGOTIATORS

Hon. Roméo LeBlanc: Honourable senators, I have a question for the Leader of the Government in the Senate. According to press reports, the Minister for International Trade has been made responsible for the fisheries negotiations with France. A few days ago the French delegation walked out of the discussions. According to today's *Gazette*, a number of Europeans walked out of a dinner speech that the minister was giving. Since the fishermen expect to have some kind of management regime, whatever happens in Ottawa, could the Leader of the Government inform us who will be left to negotiate with when the fish move in to shore?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I take it Senator LeBlanc's question is rhetorical. I should have thought, however, that he would be supportive of the sentiments expressed by Mr. Crosbie on the question of overfishing in our waters and, indeed, outside our waters, just as I was supportive and quite proud when I heard some years ago the then Minister of Fisheries, the Honourable Pierre De Bané, lecturing the European Parliament on the question of their attitude to the seal hunt.

Some Hon. Senators: Hear, hear!

Senator LeBlanc: I do not have any objection to people lecturing or using vigorous rhetoric; however, I am more interested in the results. The reality is that the fishing plans must relate to some management regime for the 1989 fishing season. It is all very well to make speeches and to tell us about people walking out, but what I want to know is what, in fact, will protect the interests of the Canadian fishermen in the absence of a management plan for the fish stocks.

Senator Murray: If the honourable senator is talking about the Canada-France negotiations, they broke down because of the failure of France to accept the conclusions of the NAFO scientific report on the 3Ps cod stocks, which make it imperative that France reduce its fishing effort in the area.

I can tell the honourable senator that our Canadian ministers will review the outcome of the meeting and examine the options shortly, including the mediation option.

NATIONAL DEFENCE

NUCLEAR-POWERED SUBMARINES—SUGGESTED PURCHASE OF BRITISH VESSELS

Hon. M. Lorne Bonnell: Honourable senators, because the French government has backed out of the consultations concerning the fisheries off our coast, I wonder if we should consider not purchasing nuclear-powered submarines from France but purchasing them from Great Britain only.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall convey the suggestion of the honourable senator that linkage be established between these issues. I shall convey that to my colleague Mr. Clark.

TAX COURT OF CANADA ACT

BILL TO AMEND—THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), for Hon. William M. Kelly, moved the third reading of Bill C-146, to amend the Tax Court of Canada Act and other acts in consequence thereof.

Motion agreed to and bill read third time and passed.

PRIVATE BILL

GRENVILLE AGGREGATE SPECIALTIES LIMITED—THIRD READING

Hon. Roméo LeBlanc moved the third reading of Bill S-21, to revive Grenville Aggregate Specialties Limited and to provide for its continuance under the Canada Business Corporations Act.

Motion agreed to and bill read third time and passed.

● (1410)

CANADA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C., for the second reading of the Bill C-130, An Act to implement the Free Trade Agreement between Canada and the United States of America.—(*Honourable Senator Murray, P.C.*).

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I understand that our friend Senator Pitfield wishes to intervene in the debate at this point, and I will yield to him and close the debate later on.

Hon. P. Michael Pitfield: Honourable senators, I want to express a word of appreciation to the Leader of the Government in the Senate for allowing me a few minutes. I wish very briefly to state my position with respect to this matter.

Frankly, I find somewhat beside the point, at this stage, much of the discussion we are engaged in concerning the pros and cons of free trade. Whether or not John Turner did this or that and what influence it may or may not have had on members of his caucus does not concern me. I regret whatever adverse reflections the matters may cast on the Senate; but certainly John Turner is not going to tell me how to vote, and I am quite convinced the same goes for other members of this chamber. So let that be the end of it.

Regarding the substance of free trade, I find the case for free trade in goods powerful. On the other hand, so far as I am aware, the case for free trade in services simply has not been made. Concerning the interpretative and governing institutions, I am uncertain whether the government or its officials know what they have done or where they are going. The same can be said concerning the consequences of this deal for Canada's future political development.

All of this is very tentative. Firm conclusions depend upon evidence that has yet to be adequately adduced and broadly debated. To say that one stands uncompromisingly for or against free trade at this juncture seems to me to proclaim an ideology at best, a partisan posture at worst; it is certainly not to give entirely sensible judgment.

But of one thing I think we can be quite sure, and that is that it is not this house but the people who must decide whether or not there is to be free trade.

Professor Ivor Jennings, among the greatest of all parliamentary and constitutional authorities in this century, in his book "The Law and the Constitution", wrote, in the late 1960s:

> It is now recognized that fundamental changes of policy must not be effected unless they have been in issue at a general election.

In another book, "Parliament", Professor Jennings wrote:

> A Government exists only because it has secured a majority at an election, or is likely to secure such a majority when an election takes place: but it secures that majority by appealing to the electorate to support a policy. The electorate expects that that policy will be carried to fruition. It does not expect that radical changes will be made unless they were part of the party policy or are the necessary consequences of that policy. The government must, of course, meet emergencies if and when they arise, but, emergencies apart, major developments of

policy should not be entered upon without that approval of the electorate which is secured by the return of a party to power.

There follows, for some 80 pages, a prolonged analysis of precedents and their authors. Similar quotations can be found in the works of Laski, MacIntosh, Keith and Carver and the Canadian commentators on those authors.

We all know about the limitations of the mandate convention, the difficulties in defining its extent and application and the danger of its drifting off towards a justification for plebiscitary democracy that has nothing to do with our system of parliamentary government. But to recognize that ours is not a system of government more or less directly by the people is not to dispense with the requirement for a mandate, especially in a situation that meets certain basic criteria.

A reading of the authors leads to the conclusion that, at the very least, the mandate of the people is required where a proposal for change in policy has three basic characteristics: first, where it is a proposal for fundamental change; second, where the proposal is not urgently required; and, third, where the change, once enacted, is very difficult or costly to reverse.

It is crystal clear that the government's free trade proposal has all three of these characteristics. First, the government has itself proclaimed how fundamental and far-reaching the proposal is. Second, no one has alleged that the proposal is urgently required by some sort of national emergency. Third, in responding to those who would "tear the agreement up", the government has repeatedly emphasized how difficult it would be to get out of the agreement.

It follows that a mandate is required and it is widely recognized that, far from asking for one at the last election, Mr. Mulroney and the Conservatives were basically against a bilateral free trade agreement. On this basis, it seems to me that the Senate must not act finally upon the free trade proposal until a mandate for it in principle is secured from the people.

I would conclude, Mr. Speaker, by recalling the meaning of majority decision and majority rule as it applies in a matter such as the one we are debating. In his celebrated lectures on the Constitution, L.S. Amery pointed out that:

> Decision by a majority
>
> —in Parliament—
>
> is not an absolute and unquestionable principle. Our Constitution, to use Burke's phrase, 'is something more than a problem in arithmetic'. There is no divine right of a mere numerical majority, of X/2 plus 1, any more than of kings. Majority decision is a measure of convenience essential to the dispatch of business, 'the result', to quote Burke again, 'of a very particular and special convention, confirmed by long habits of obedience.' Thanks to that convention Government is carried on with the acquiescence of the minority.
>
> When it comes to legislation it is of the very essence of our conception of the Reign of Law that it should not be regarded as a mere emanation of the will of the Government, but of something accepted by the nation as a whole. That requisite of consent for changing the law, or at least of acceptance when changed, is the root from which sprang our whole Parliamentary system with its representation of the various interests and elements in national life and with its elaborate provisions for full discussion. The idea that a majority, just because it is a majority, is entitled to pass without full discussion what legislation it pleases, regardless of the extent of the changes involved or of the intensity of the opposition to them—the idea, in fact, that majority edicts are the same things as laws—is wholly alien to the spirit of our Constitution.

[Senator Pitfield.]

• (1420)

No one will pretend that, whether for good or for ill, the free trade proposal is not far-reaching and will not vitally affect the future of our country. None will say that there are not strong feelings held by sizeable minorities with regard to it. Here, it seems to me, is quintessentially the sort of situation where majorities should not be used peremptorily; where—especially in the fifth year after the last election—the people should be consulted; where the Senate, if need be, must stand up by itself and insist that the conventions of the Constitution be respected.

Senator Murray: Honourable senators—

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

Senator Murray: Honourable senators, I respect the position taken by our friend who has just resumed his seat. However, as I indicated in some detail in my own speech opening this debate a couple of days ago, I do not agree with that position. I went into some detail to discuss the so-called mandate theory. I do not want to take up your time today by repeating what I said on that occasion. I do, however, state that there is precious little precedent in this jurisdiction for governments respecting the so-called mandate convention.

On how many occasions has it happened that so-called fundamental changes in policy were introduced only after the government introducing them had gone to the people to seek a mandate? Did it happen with wage and price controls a year after the Trudeau government had explicitly campaigned on the pledge that they would not introduce such controls? No! Did it happen with the attempt to amend the Constitution of Canada, to patriate it unilaterially?

Senator Thériault: Yes, it did.

Senator Murray: No, it did not. At no time had the Trudeau government sought a mandate to do anything as drastic. Wage and price controls was a change in policy for that government, a very fundamental change in our country, and a policy to which governments in the past had had recourse only in war time. I must say that the honourable senator's argument in the context of Canadian political history falls very short indeed.

I should also point out that we have not argued in this government that this Free Trade Agreement is such a fundamental change. I went to some pains the other day to point out that, in an economic policy context and, indeed, in a political context, this Free Trade Agreement is evolutionary. It completes the work begun in the 1930s to integrate Canada into the world trading system. That is the position we have taken.

As for its being difficult to get out of once entered into, as I pointed out the other day six months' notice is what it would take for either party to abrogate the agreement.

Honourable senators, with those few words, I do want to thank the honourable senator for his intervention. I should also like to thank and congratulate all those who have taken part in the debate. The Senate will understand if I thank in particular my colleagues on this side: Senators Balfour, Doyle and Roblin, for their very supportive and constructive comments.

The journalists' bench was full the other day when Senator Everett and Senator MacEachen spoke. I am glad of that, because those were outstanding speeches in this debate. I only wish that our friends from the Fourth Estate could have heard the other speeches that were made in the debate by the senators I have just mentioned, and others. I think they could not have heard them without going away with a better opinion of the quality of debate in this chamber.

The Leader of the Opposition was at his parliamentary best the other day, and at his parliamentary best there is none better. However, as I heard him trying to build a case against this Free Trade Agreement on the basis of its energy and agricultural provisions, seizing upon and magnifying any concern in any corner of any sector, I thought to myself, "This is microeconomics and micropolitics with a vengeance." One might have hoped for a larger view from him of where the national interest truly lies in this matter. What does he really think of the Free Trade Agreement as a whole? More important, what is his alternative? What is their alternative to this agreement? He does not say and we will not know, because, when a vote is held on principle on second reading of this bill, the Leader of the Opposition will abstain.

In listening to him the other day I could not help but be reminded of the observation made by his good friend and long-time associate Tom Kent in his book "A Public Purpose", published a few months ago. Speaking of Senator MacEachen and his long ministerial career, Tom Kent said that Mr. MacEachen had been an excellent tactician and a great constituency man, but then he added, "Allan J. was never much for the detail of a policy." Quite so.

In his speech the other day he did not weigh the cost and benefits of this agreement or the advantages and disadvantages to the nation as a whole; nor did he try to take some coherent view of the entire agreement. He seized on the concerns of some food processors, repeated the most alarmist and hysterical statements that opponents of the Free Trade Agreement had made about its energy provisions—Senator Roblin dealt with these pretty effectively yesterday—and then the Leader of the Opposition walked away from the agreement. When the question of principle is put, the Leader of the Opposition will be absent or will abstain.

Senator MacEachen claims that the energy provisions of the agreement would, as he put it, "limit the freedom of action of Canadian national actions in the energy field." That is what *Hansard* quotes him as saying. That statement is not only hard to say, it is untrue.

The Free Trade Agreement deals only with trade in energy, not with the control, ownership or use of energy resources in Atlantic Canada or anywhere else. Canada has not abandoned its responsibility to formulate and implement energy policy for the benefit of Canadians. We remain free to monitor and review exports and maintain the right to provide incentives for gas and oil exploration and activity. Honourable senators know that. In no way does the agreement jeopardize Canada's political autonomy or independence to pursue policies that we feel are in the best interests of Canadians.

The Leader of the Opposition raised the issue of energy sharing. I want to emphasize no commitment to supply is implied by the agreement. In normal situations, exports to the U.S. will move according to market conditions. In an emergency in which a government resorts to export controls, it is obliged only to administer its controls in such a fashion as to allow the U.S. to compete on commercial terms for its historic proportion of Canadian supplies, based on the most recent three-year data. Even in these circumstances there is no commitment on the government's part to deliver to the U.S. its proportion, and Canadian companies would be able to compete for the U.S. portion without infringing on the terms of the agreement.

● (1430)

I know that the honourable senator and others take considerable offence at having independent views from authorities, such as the C.D. Howe Institute, read into the record and therefore I will not take much of their time with this. However, I would like to advise them that a study done by the C.D. Howe Institute, authored by Edward A. Carmichael, vice-president and director of research at the institute, was published early this summer. It is not a long study, but I do commend it to the attention of honourable senators. I will not quote directly from that study, but I will quote briefly from the press release they put out, which I think summarizes what they have to say. The press release says:

> In spite of much opinion to the contrary, the Canada-U.S. Free Trade Agreement should enhance Canada's energy security in the future . . . Edward A. Carmichael . . . argues in the latest *Trade Monitor* that the Agreement's proportional-sharing commitment, to which many critics object, is not new. It merely reaffirms sharing arrangements to which Canada and the United States have agreed as members of the General Agreement on Tariffs and Trade (GATT). Furthermore, the proportional-sharing commitment is not threatening when one understands (1) that it is Canada that will determine if and when such sharing will be invoked and (2) that as long as U.S. buyers are provided proportional access,

> Canadians can continue to compete commercially to buy any amount of Canada's energy production up to the total amount.

Mr. Carmichael then goes on to say:

> . . . all of the major energy industries—uranium, oil and gas, and electricity—stand to benefit from more secure access to the U.S. market. Canada's vast energy potential in the oil sands and frontier regions is more likely to be developed if producers have secure access to a large market. For this reason, free trade should enhance Canada's energy security and that of the United States.

The honourable senator asserts that the deal is a bad one for the agricultural community as well, and there again he is wrong. The agreement meets all three of the objectives that the government set for itself in the agricultural area: first, to improve access to the U.S. market for Canada's farm products; second, to make that access more secure; and, third, to preserve our agricultural marketing system.

The honourable senator also had a great deal to say about the food processors, and I know, because he told us, that there are a few food processors, such as Archie McLean of McCain Foods Limited, who are highly critical of this agreement. But as Senator Roblin pointed out yesterday, Mr. McLean is opposed to marketing boards. That is what he wants to do; he wants to get rid of marketing boards. However, we have protected marketing boards in the Free Trade Agreement; we have negotiated a good deal for Canadian farmers; we have secured access for their products in the United States.

Mr. McLean says that food processors will suffer because their costs will be higher in the United States. Objective analysis indicates that this is not true. Eighty per cent, I am told, of the higher costs for Canadian food processors was due to the two-price wheat policy. The government has already announced the end of this policy. The remaining 20 per cent of the problem has been addressed in large measure by the FTA. First of all, the removal of tariffs on products not under supply management will ensure competitively priced inputs to food processors—and I can go into some detail on that. Secondly, for products under supply management, we have given repeated assurances that increases in quotas will be allocated to food processors so that they will have adequate quotas for inputs such as chicken at U.S. prices.

Moreoever, under the FTA, sugar, a major input for food processors, will be available to Canadians at a significantly lower price than in the United States. In addition, for processors of dairy products, we have added ice cream, yogurt and a number of minor dairy products to the import controls. Therefore, the impact on the food processing industry will be positive. Reputable analysis by the Economic Council proves this. I think it is also of some importance in this connection that the large food processing firms, with the exception of McCain Foods Limited, and the majority of small and medium-sized firms support the Free Trade Agreement. Even Mr. McLean has stated that he expects McCain Foods to continue to grow and prosper and that the FTA is in the overall interest of the Canadian economy.

Senator Frith: Not of the workers!

Senator Murray: Honourable senators, I have one last word about agriculture. Canada and the United States agreed that some of the most pressing problems in this area need the cooperation of all countries. Therefore, we have agreed to work together in the GATT to further improve and enhance trade in agriculture. I can also tell honourable senators from my experience as minister responsible for the Atlantic Canada Opportunities Agency that, far from shrivelling up, dying and going away, quite a number of food processing companies in the Atlantic provinces are expanding, are increasing their product lines, and are coming to the agency and receiving assistance to do this very thing. So I think the future of the food processing industry is quite bright. Certainly, adjustment has been going on all the time in response to changing market conditions, but the future is by no means sombre for food processing in this country.

The other day Senator MacEachen wrung his hands in concern over Nova Scotia and the Atlantic provinces. I remind the Senate that the majority of the people of those provinces support the Free Trade Agreement. Three of the four governments in the Atlantic region—one of them the Liberal Government of New Brunswick—support the agreement, because they know it is good for the Atlantic provinces. Mr. Gordon Cummings, president of National Sea Products, who appeared before our Fisheries Committee last night, has said on behalf of his company:

> We're getting ready for free trade in every aspect of our business from harvesting through product development, product promotion, marketing and sales. We're ready for aggressive, freer trade with the U.S.

He spoke along those same lines last night. In an exchange with our friend Senator Stewart of Antigonish-Guysborough, Mr. Cummings spoke about the dispute-settlement mechanism. He said:

> I certainly feel more confident with the new dispute-settlement mechanism than I do with the current dispute-settlement mechanism under which I have had to live, have had to pay the damn lawyer fees

—I am quoting him *verbatim*—

> and have had to deal with the nightmare of the Department of Trade and Commerce.

He is referring to the U.S. Department of Trade and Commerce. He points out in his testimony—and I have only had an opportunity to skim the unrevised transcript—that there is more to protectionism in the United States than the passage of new laws through the Congress. Our justifiable complaint for some time has not been with the laws themselves but with the politicization of the process, as we saw in the softwood lumber case. It is precisely to get around this politicization of the process and precisely to institute a rule of law in this area that we have a dispute-settlement mechanism, which, on the testimony of virtually all the experts, is superior. Certainly it is

superior to the situation we have now, superior to any dispute-settlement mechanism in the GATT, and superior to any dispute-settlement mechanism in other bilateral trade pacts existing in the world today. That is the evidence of all the experts on this matter whom anyone has been able to identify.

Some Hon. Senators: Hear, hear!

Senator Murray: Let me come back to Nova Scotia. Sharon Oakley of Harmony Classics Incorporated, a Halifax clothing manufacturer, is quoted as saying, "We had already planned to enter the U.S. market, so the Free Trade Agreement came along at a very opportune time for us." The former premier of Nova Scotia, a good friend of my friends from Nova Scotia and a former Minister for International Trade, the Honourable Gerald Regan, has concluded, "With free trade, a new day would dawn for industrial and economic development in Nova Scotia." That is the testimony of a man who guided the destiny of Nova Scotia for eight years during the 1970s, who represented that province in the House of Commons, and who has had extensive experience as a former Minister for International Trade.

● (1440)

In the other Atlantic provinces the view is equally upbeat. Garth Jenkins of Abegweit Seafoods Inc. of Charlottetown says, "We plan to produce and export a much greater variety of seafood products, because, under this agreement, we will have greater access to the U.S. marketplace." Ganong Brothers of St. Stephen, New Brunswick, have been mentioned in this house before. Here is a company which was really not very enthusiastic about free trade. They probably wished it would go away. They saw it as quite a challenge and wondered whether they were up to it. But, once the Free Trade Agreement was signed, they looked at it, they looked at the opportunities, and they decided to go for it. They decided to expand. They decided to crack that United States market. Here is a tremendously reputable firm in the province of New Brunswick and, if quality means anything in that United States market—and I think it does—I believe Ganong Brothers of St. Stephen is going to be a real winner in the free trade arrangement.

Some Hon. Senators: Hear, hear!

Senator Murray: I am very proud to say that they have come to the Government of Canada, the Atlantic Canada Opportunities Agency, for assistance. We are working with them on their expansion and modernization plans.

Alvin Brun of Environment Air Limited of Buctouche, New Brunswick, says that his company is increasing sales of heat recovery ventilation systems to the U.S. and that he feels free trade will only improve the situation.

It is people like these who have made this country a great trading nation and it is people like these who will make the opportunities provided by free trade work for Atlantic Canada and, indeed, for all of Canada.

Honourable senators, this debate on the Free Trade Agreement has also engaged us in a debate about the role of the Senate. The Leader of the Opposition waxed eloquent, and sometimes waxed indignant, the other day about my views on the role of the Senate. He went so far as to suggest that I should resign from this place because of my views on the role of the Senate. Let me say at the outset that the Honourable the Leader of the Opposition is not in a very credible position to give advice to any person holding public office as to when and under what circumstances that person should resign his office.

In November of 1981 Senator MacEachen, as Minister of Finance, brought in a budget on November 12—a budget that, before the ink was dry, had been disowned by his own Prime Minister, by his own caucus colleagues.

Senator Frith: Oh, my goodness!

Senator Robichaud: What relevance has that? None whatsoever.

Senator Murray: Even his cabinet colleagues were attacking his policies in the street. Did he resign? Of course he did not. A month after November 12 eighteen changes had been made in his budget. In the next six months 17 more changes were made.

Senator Frith: Oh, my goodness!

Senator Murray: In the next couple of months eight more changes were made. Yet, oblivious to constitutional convention, Minister of Finance MacEachen clung to power long after his budget had been gutted—

Senator Roblin: He got sacked!

Senator Murray: —his policies repudiated and his credibility destroyed.

Senator Molgat: What constitutional convention?

Senator Murray: The constitional convention that ministers, when they are responsible for a huge blunder in policy, walk the plank.

Senator Molgat: Then this place would be empty.

Senator Murray: In any other jurisdiction, certainly in any British or Canadian parliamentary system, the Minister of Finance would not have lasted another day. He clung to office through another budget until, finally, he went to hibernate in the Pearson Building for the rest of the mandate.

Senator Frith: Let's get to the fun part. Are you going to resign or not?

Senator Murray: Talk about self respect and constitutional convention!

Honourable senators, the present disagreement between us about the role of the Senate is fundamental and sooner or later it will have to be resolved or there will be a crisis in this country.

This government is committed to an elected Senate. You all know that. Senate reform is at the top of our constitutional agenda. Honourable senators know that as well.

The smart money says it cannot be done. The so-called smart money says that Quebec and Ontario will never agree to

a Senate in which there is increased representation from the west. The so-called smart money says we will never agree on the powers of an elected Senate or on the composition and representation in that Senate on the distribution of seats. But the smart money thought that Canada could not negotiate a Free Trade Agreement with the United States.

Senator Austin: You didn't!

Senator Murray: The smart money thought that Meech Lake would be impossible. But I tell honourable senators that the smart money is wrong, and not for the first time. I am telling honourable senators that there is sufficient interest in this matter among the people, and I believe there is sufficient willingness among the provinces in Canada, that we can make some headway on this issue. I believe the views of the provinces on this matter—and they do diverge—are capable of reconciliation if we seize the opportunity that is ours in the months and years immediately ahead.

Some Hon. Senators: Hear, hear!

Senator Murray: Meanwhile, though, honourable senators, this chamber does have a role. Where the Leader of the Opposition and I disagree is that I believe that in 1988 this appointed chamber must have a role secondary to that of the elected House of Commons. He believes that in 1988 we can legitimately exercise powers equal to those of the elected House of Commons. That notion must be obnoxious to anybody who truly respects democracy.

He ridicules my definition of our status and role in the 1980s, but honourable senators who have been here for any time know that that role has evolved and matured under the guidance of senators, most of them Liberal senators, over a considerable period of time—people like Senator Hayden and others who recognized that the role of the nineteenth-century Senate exercising its powers to the full was obsolete.

However, the Senate still had constitutional legitimacy. Was there a way that compromise could be struck between the full exercise of all the constitutional powers of the Senate, which is clearly unacceptable in Canadian democracy today, and the realities of Canadian democracy today? Did the Senate have to become a rubber stamp in order to conform to the realities of Canadian democracy? They thought not. They thought that the Senate could play a useful role without challenging the primacy of the elected house. So, as honourable senators know, they reinvigorated the committee system. Numerous studies were made on policy matters. One thinks of the committees headed by Senator Croll; the great work that was done by the late Senators Lamontagne and Grosart on science policy; and Senator Davey's committee on the mass media. I, myself, sat under Senator Everett's chairmanship during an excellent study on regional policy in this country. They all proved that the Senate could play that role usefully.

Then, on legislation, they struck a compromise, and the compromise was the technique to pre-study, which has now been abandoned for purely partisan reasons by my friends opposite. It was the Hayden formula. It bears the name of one of our most illustrious former senators.

[Senator Murray.]

Senator Frith: That was not the Hayden formula.

Senator Murray: It was a matter of detailed pre-study of legislation and what I have called in this house, on previous occasions, quiet diplomacy on the part of the Senate. That process persuaded numerous ministers of the Crown to make many changes, improvements and amendments to bills before they left the House of Commons.

Now, I say to the Senate that that process of pre-study effected far more changes, far more improvements, in public policy and in legislation than the confrontational and partisan attitude of the present Liberal majority in this chamber.

Some Hon. Senators: Hear, hear!

• (1450)

Senator Murray: I know it does not suit some honourable senators, especially those who come directly from the House of Commons and cannot accustom themselves to working rather in the background, but must have the limelight and the television and all the rest of it. They find the experience in this place hard to bear, because they are so accustomed to being in the spotlight.

However, honourable senators, those of us who have taken part in the process, and I took part in it for a number of years under a Liberal government, know its value to the public policy process and to the legislative process. I was never ashamed of it. I believed it to be, and continue to believe it to be, a useful contribution to the political process, to the public policy process, to the legislative process. I am not ashamed of it at all; but I would die of embarrassment to be associated with the quaint idea that in 1988 an appointed legislative body enjoys democratic legitimacy equal to that of an elected house.

Some Hon. Senators: Hear, hear!

Senator Murray: That is the MacEachen formula, and he can have it; but permit me to say that the Laird of Lake Ainslie takes his title a bit too literally.

Honourable senators, as I said, some of the worst offenders in this are those who come directly from the House of Commons and simply cannot get it out of their heads that somebody else has been chosen by the people to represent the constituencies they once represented. They cannot get it into their heads—

Senator Frith: Good God! Will these lectures never end?

Senator Murray: —that they must play a secondary role in our system.

Senator Frith: It's so sanctimonious. In church, at least the minister does not have the chance to give his little sermonette all over again.

Senator Roblin: It will do you good to hear it more than once.

Senator Murray: As we saw in some of the discussion on Bill C-83, which was mentioned a while ago, some of them have quite a rich idea of what the country owes them—

Senator Frith: At least in church, you can walk out.

Senator Murray: —for the great sacrifice of sitting in the Senate. Honourable senators, they have a double standard opposite, one standard when a Tory government is in power and another standard for a Liberal government. They have two sets of principles to guide them.

Senator Roblin: That's the Puppet-Master.

Senator Murray: They are furious that Gordon Robertson, who knows them so well, has put his finger on it, has exposed their motives, and has described them so well as an archaic cabal.

Senator Frith: Gordon Robertson was talking about all senators, including you.

An Hon. Senator: It's unparliamentary!

Senator Murray: Oh, no.

Senator Frith: Oh, yes. "They have no legitimacy. They have no legitimacy."

Senator Murray: Honourable senators, I have already stated my view on that. We cannot purport—and this is my great disagreement with Senator MacEachen—to enjoy democratic legitimacy equal to that of the elected House of Commons.

Senator Frith: Are you saying Robertson was only speaking about Liberal senators?

Senator Roblin: If the cap fits, wear it, senators.

Senator Murray: Gordon Robertson talked about the cabal of Liberal senators and he said it would be interesting to ask yourself, if this free trade legislation had originated with a Liberal government, whether they would have taken the same position, and he said the answer, of course, was no.

Senator Frith: Of course! Gordon Robertson knows. He is fresh down from Mount Sinai every day with all his stuff freshly carved in tablets of stone.

Senator Doody: You all did love him once.

Senator Frith: Just think of it! He's quoting Gordon Robertson as a pope during this homily!

Senator Murray: What he talked about is what he thought of it and—

Senator Frith: After what he talked about—

Senator Roblin: Oh, be quiet! Restrain yourself!

Senator Murray: Some of my friend's colleagues have airplanes to catch, and I would ask him not to provoke—

Senator Frith: Do none of yours have planes to catch? Is that what you are telling us? Is that another part of your sanctimonious sermon?

Senator Murray: It is late on Thursday afternoon. Gordon Robertson spoke of the abuse of power by the Liberal majority in the Senate, and when he talked about the archaic cabal he was talking about my friends opposite.

Senator Frith: "His Holiness the Pope" knows about that.

Senator Murray: When Senator MacEachen spoke on my motion for pre-study of this legislation some months ago, he said that in terms of the work of the Committee on Foreign Affairs there was really not much difference between studying the agreement—

Senator Roblin: None, he said.

Senator Murray: None. He said there was no difference between studying the agreement and studying the bill, and that, if we would allow the committee to continue its study, when we came to have the bill before us, the hours that the committee had spent studying the agreement would be, as he put it, money in the bank. Over the period of time there were, as I told the house the other day, 42 meetings of the Foreign Affairs Committee. They heard 92 witnesses.

Senator Frith: Good for them!

Senator Murray: What has happened to the money in the bank?

Senator Doody: They spent it!

Senator Murray: Now the Leader of the Opposition proposes to send the bill to committee. He proposes to send the bill to committee, and it is clear from what he said the other day—

Senator Frith: The committee has never had the bill.

Senator Murray: —that this is a stall.

Senator Frith: They have had the agreement, not the bill.

Senator Roblin: It's the same thing, according to him.

Senator Murray: It is clear from what he said the other day that this is a stall, this is a delaying action, this is a blocking game that they are playing. There was no indication that they would deal expeditiously with this. He says—

Senator Frith: Will you give me the blessing, "Father Tremblay," that the bishop is refusing to give me?

Senator Doody: It's a postponement.

Senator Murray: My honourable friend is not too credible on that.

Senator Roblin: No. He is pretty noisy.

Senator Murray: For reasons we both understand.

Senator Roblin: Sound and fury signifying nothing.

Senator Frith: Carry on, "Father".

Senator Murray: The honourable Leader of the Opposition spoke the other day and said, "If we are still here in a month's time, ask me then." It really is incredible that they say they want an early election, unless they are even more out of touch with reality than I thought. The party is bankrupt, because they managed the finances of the party in the same way as they used to manage the finances of the country.

Senator Frith: Come on! Stick to reply.

Senator Murray: With wanton disregard for fiscal responsibility.

Senator Frith: You're supposed to be sticking to reply. You are abusing us, sir.

Senator Roblin: You're abusing your right to speak.

Senator Murray: Their leader has disappeared from the screen, in terms of public opinion.

Senator Frith: He is opening new subjects and stopping other people from dealing with them.

Senator Murray: These honourable senators want to egg him on into an election. It is great to be a senator!

Senator Frith: By abusing the right of reply you stop other senators from being able to deal with a new subject that you have opened up.

Senator Roblin: You're a noisy nuisance, a squalid, noisy nuisance!

Senator Murray: Honourable senators, next week I expect we are going to see—

An Hon. Senator: Talk about a demon!

Senator Murray: —child care legislation coming to this house.

Senator Frith: Child care?

Senator Murray: Child care legislation.

Senator Frith: Is that part of the free trade bill?

Senator Murray: I am dealing with the role of the Senate.

Senator Frith: We are not going to be dealing with free children, are we?

Senator Murray: I am dealing with the business of the Senate.

Senator Frith: What does child care have to do with it?

Senator Murray: What it has to do with is the blocking action.

Senator Roblin: You can't take it, eh, Frith?

Senator Frith: Take what?

Senator Roblin: You can't take it!

Senator Frith: Take what? I can't take the abuse of the rules? No, I can't. I find it quite intolerable. Thank you for asking.

Senator Roblin: You were not as noisy when MacEachen was talking.

Senator Murray: Why don't you resign?

Senator Frith: Come on! Get to the bill. That is very, very out of order. Let's talk about the bill before us, which is Bill C-130. You have the right of reply and you should exercise it. Don't talk about other things. Are you going to talk about broadcasting as well?

Senator Murray: As a matter of fact, yes, I am.

Senator Frith: Let's have a look at what is on the Commons order paper and see if you can bootleg every bit of legislation through.

[Senator Murray.]

Senator Barootes: Stand up if you want to make a speech.

Senator Frith: Thank you very much. Are you giving me leave to make a speech and to intervene?

Senator Barootes: No. Sit down!

Senator Frith: Well, then, shut up!

Senator Murray: Honourable senators—

Senator Roblin: You got under his skin, that's for sure.

Senator Frith: A good two-worder like "stand up" and "sit down" and "shut up".

Senator Doody: "Some Honourable Senators: Shut up!"

Senator Murray: There are people—

Some Hon. Senators: Order!

Senator Murray: There are people opposite who do have planes to catch.

Senator Frith: Are there no people over there with planes to catch?

Senator Denis: Are you for or against free trade?

Senator Murray: Honourable senators, I was discussing—

Senator Frith: Child care.

Senator Murray: No, the stalling and delaying action and the blocking game that is being played by the Leader of the Opposition and his colleagues. I was asking whether, when child care legislation gets here next week—

Senator Frith: Order! Order! Order! Order! Order!

Senator Murray: —they are going to hold the child care legislation hostage—

Senator Frith: Order, order! Let's wait until we see it. Order!

Senator Murray: —to the games they are playing on free trade. Since I was invited to do so, I should say a word about the broadcasting bill.

Hon. Royce Frith (Deputy Leader of the Opposition): Your Honour, I call on you to intervene and call the Leader of the Government to order. He is exercising his right of reply on Bill C-130 and has now introduced the child care legislation and the broadcasting legislation. That is an abuse of his right to reply in the debate on second reading of Bill C-130. I ask Your Honour to call him to order.

• (1500)

Senator Murray: Honourable senators—-

Senator Frith: Wait a minute! At least the Speaker should say whether or not he is going to do that.

The Hon. the Speaker: Honourable senators, when an honourable senator speaks, I believe he has some latitude in what he can say.

Senator Doody: And the right to speak without interruption!

The Hon. the Speaker: The honourable senator has mentioned the child care legislation and the broadcasting legislation in his remarks to the Senate.

Senator Frith: These are remarks in reply.

Senator Barootes: Don't interrupt the Speaker! You asked for a ruling.

The Hon. the Speaker: Honourable senators, I think a speaker has some latitude in his reply. The honourable senator has addressed Bill C-130 and, if he wishes to refer to other legislation during his speech, I think he is entitled to do that. The thrust of his speech has been on Bill C-130.

I am giving honourable senators my views on this matter. If honourable senators wish to overrule me, that is their choice.

Senator Frith: Your Honour is aware of the statement made on the occasion of reply, which is that "this speech will have the effect of closing the debate on the motion for second reading of this bill."

Senator Barootes: Except you!

Senator Frith: That, of course, means that if anyone wants to speak now on these new items the Honourable Senator Murray has brought up, they cannot do so.

Some Hon. Senators: Oh, oh!

Senator Frith: Of course, even interventions that are made, and comments that are made while one is sitting down, arouse the ire of Senator Barootes.

Your Honour, this is clearly an abuse of the right of reply. I am not talking about the remarks and relevancy during the original intervention in the debate, but this is Senator Murray's right of reply. He is to reply. How can he reply by referring to the legislation on child care and the legislation on broadcasting, since they were not mentioned by anyone during debate on Bill C-130? How can he say that he is replying to what somebody said about those particular pieces of legislation?

Senator Murray: Honourable senators, talk about wasting time ! The intervention of my friend is a terrible waste of time.

Senator Frith: Anything that slows you down is a waste of time.

Senator Murray: I can say what I have to say on these matters in 30 seconds or less.

Senator Frith: That does not make them any less out of order.

Senator Murray: I beg your pardon! We have had considerable discussion in this place over the past few days about the role of the Senate and, in particular, the role of the Senate on this bill at this particular time in the life of this Parliament. My goodness! The Leader of the Opposition discussed this matter at length. What I am asking is: Are you going to hold the child care legislation hostage to your free trade tactics? The broadcasting bill, as I have said, enjoys a great deal of support across the country and considerable support in this house. I appeal to honourable senators that, when that legislation gets here, although it is tied up in frivolous amendments in the other place, honourable senators not hold that legislation hostage to their games on free trade.

Senator Frith: Is that a question? Our answer is "Order!"

Senator Murray: Honourable senators, as I said when I opened this debate, the Free Trade Agreement is one of the definitive achievements of Prime Minister Mulroney and his government in their first mandate. We believe that the Free Trade Agreement is a bridge to the future, a bridge to a more prosperous future for Canada and for future generations of Canadians. To us the future is about building bridges, not about building barriers. I say that this will be an issue whenever the election is held. We have the commitment of the Right Honourable John Turner to tear up the agreement, but I say that the duty of the Senate is to pass this bill, and then the people can choose between the bridge builders on the one hand and "John the Ripper" and his crew on the other.

Some Hon. Senators: Hear, hear!

Senator Doody: Pass it now!

Hon. Sidney L. Buckwold: Would the honourable senator permit a question on a remark he has made?

Senator Murray: I will try to answer it.

Senator Buckwold: I am sure all honourable senators have seen the advertisement in today's edition of the *Globe and Mail* relating to free trade. I want to have something clarified, because the Leader of the Government in the Senate went to great lengths to indict the motives of McCain Foods Limited of New Brunswick as being out to break the—-

Senator Murray: Marketing boards.

Senator Buckwold: —the marketing boards. He suggested that, in fact, there was an ulterior motive in the evidence which that company gave on the results of the Free Trade Agreement on the agrifood business.

The advertisement is headed: "Free Trade Should be Fair Trade". One sentence states:

> There's nothing wrong with the concept of free trade but this contract is a disaster for the agrifood industry in Canada.

The advertisement is sponsored by the Nova Scotia Chicken Marketing Board, McCain Foods Limited and others.

My question is: How can the leader rationalize what he said earlier, that the objective of McCain Foods Limited is to break marketing boards, when, in fact, it is linked to marketing boards in an effort to put an end to what could be a disaster for the industry?

Senator Murray: The answer to that question was given in debate yesterday by Senator Roblin when he quoted chapter and verse and told us what Mr. Archie McLean had to say in the committee. He said quite frankly that they were opposed to marketing boards, to the supply-marketing system, in fact.

Hon. John B. Stewart: Honourable senators, may I ask the Leader of the Government in the Senate if he is not aware

that, under questioning by Senator Roblin, Mr. McLean said emphatically that he was in favour of all the existing marketing boards, although he did admit that he was not in favour of the introduction of a marketing board for potatoes?

Is that not exactly what he said? Senator Roblin commented, "Well, your position is at least pragmatic." I think that is an exact quotation of what he said before the Standing Senate Committee on Foreign Affairs on August 10, 1988.

Hon. Duff Roblin: Since my name has been brought into the question, perhaps I should be allowed to comment briefly on this.

It is obvious that Mr. McLean is in favour of marketing boards, unless they affect his business. He does not want a potato marketing board, which would affect his business. So it is very easy to be in favour of marketing boards for somebody else, provided they are not in favour of marketing boards for your business.

Hon. Charles McElman: That statement is altogether untrue! I wish the honourable senator would not propagate such untruths in this chamber.

Senator Roblin: I regret it if it is untrue. If my friend can correct me, I should be glad to accept any correction.

Senator McElman: McCain Foods Limited said that if you have a marketing board for potatoes, your plant in Portage La Prairie goes down and hundreds of jobs with it. That is what he said. He also said that with that plant he can move across the border into the United States and supply your market without any trouble at all, and your employees will be gone. That is what he said to you.

Senator Roblin: That is exactly what he said, and he said that, if there is going to be a marketing board for potatoes, he would be against it. That is the point I am trying to make.

Senator McElman: And he is not alone in that, by far.

Senator Doody: Question!

Hon. Gildas L. Molgat: Honourable senators, I have a question for the Honourable Senator Murray. My question is on the specifics. The only reason I ask it now is that he raised this in his speech when he referred to the food processors. If I understood him correctly, he said that sugar would now be able to come in at much lower prices. Is that correct?

• (1510)

Senator Corbin: How sweet it is!

Senator Murray: Honourable senators, that is not quite what I said. I had better check the record, if the honourable senator thinks that is what I said. I said that the price of sugar available to processors in this country is lower than it is in the United States, which provides a considerable advantage for our food processors.

I said that sugar will be available to Canadians at a significantly lower price than in the U.S., and that this is a considerable advantage for our food processors. Indeed, some have reckoned that the advantage for most food products would substantially offset any disadvantage to Canadian food processors that might result from the operation of supply-management policies.

[Senator Stewart.]

Senator Molgat: Is the minister saying that, as a result of the trade deal, sugar will be available—

Senator Murray: No, honourable senators. I am saying that the manufacturers of processed food in Canada benefit from lower cost sugar than is the case in the United States.

Senator Doody: That was before Hurricane Gilbert! Question!

Senator Buckwold: I should point out, honourable senators—and thank you for asking for the question—that in respect of sugar—now that we are into the sugar question—the same advertisement says:

> It's not fair . . . that the U.S. can limit the imports of further processed products containing sugar (like cookies and candies) from Canada but Canada cannot limit the import of most further processed products containing grain, poultry, eggs, horticulture . . .

et cetera. Where is the greater advantage in having a lower price for sugar when the Americans have been smart enough to put into the agreement that they can limit the amount of import to the U.S. of Canadian products containing sugar?

Senator Murray: Honourable senators, I have already told the house that all of the major food processors and the majority of the medium and small-sized food processors, with the exception of McCain, favour this agreement. Indeed, a good many of them that I am aware of in the Atlantic region are gearing up to expand and add to their product line in light of the Free Trade Agreement.

An Hon. Senator: How many are Canadian owned?

The Hon. the Speaker: It is moved by the Honourable Senator Murray, P.C., seconded by the Honourable Senator Roblin, P.C., that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Senator Frith: On division!

Senator Murray: We want a standing vote.

The Hon. the Speaker: You want a recorded vote? Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen.

Senator Doody: We want a standing vote, Mr. Speaker. Call in the members.

The Hon. the Speaker: Please call in the senators.

Senator Frith: The "yeas" have it!

Senator Denis: What if you lose?

Senator Barootes: Where's George!

● (1520)

The Hon. the Speaker: Let the doors to the chamber be locked.

Motion agreed to and bill read second time on the following division:

YEAS

THE HONOURABLE SENATORS

Atkins	Macdonald (*Cape Breton*)
Balfour	Marshall
Barootes	Murray
Bazin	Phillips
Cochrane	Robertson
David	Roblin
Doody	Simard
Doyle	Spivak
MacDonald (*Halifax*)	Tremblay
	Walker—19.

NAYS

THE HONOURABLE SENATORS

Nil

ABSTENTIONS

THE HONOURABLE SENATORS

Adams	Kenny
Anderson	LeBlanc (*Beauséjour*)
Argue	Lewis
Austin	McElman
Bell	Molgat
Bonnell	Pitfield
Buckwold	Riel
Cools	Robichaud
Corbin	Sparrow
Cottreau	Stewart (*Antigonish-Guysborough*)
Denis	Turner
Fairbairn	Wood—27.
Frith	
Haidasz	
Hastings	

The Hon. the Speaker: Let the doors be opened.

REFERRED TO COMMITTEE

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I move that the bill be referred to the Standing Senate Committee on Foreign Affairs.

● (1530)

Hon. Orville H. Phillips: Honourable senators, perhaps the mover will explain why he is moving that motion. We just had a vote and not a single senator voted against free trade. Why is he continuing his blockade?

Senator Frith: Honourable senators, the reason for the abstention that was recorded on the earlier vote was explained, I think, quite clearly by Senator MacEachen, the Leader of the Opposition. So that is the answer, and that is the position that we take and the position that Senator MacEachen takes. We know that Senator Murray feels—and I believe he is supported by the Conservative senators—that the bill needs no further study because it was studied in the House of Commons and because our Foreign Affairs Committee studied the agreement, although not the legislation.

In any event, the reason for our motion to have it referred to that committee has also, I think, been well explained by Senator MacEachen.

On motion of Senator Frith, bill referred to the Standing Senate Committee on Foreign Affairs.

PATENT ACT

BILL TO AMEND—INTERIM REPORT OF COMMITTEE—DEBATE CONCLUDED

The Senate proceeded to consideration of the thirty-second report (interim) of the Standing Senate Committee on Banking, Trade and Commerce (Bill S-15, an act to amend the Patent Act), presented in the Senate on September 14, 1988.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I yield to Senator Bonnell.

Hon. M. Lorne Bonnell: Honourable senators, the thirty-second report of the Standing Senate Committee on Banking, Trade and Commerce on Bill S-15, to amend the Patent Act, came before us yesterday. I should like to point out some of the highlights of that report for the benefit of those senators who have not had an opportunity to read it. This is a complicated matter that the committee is studying, and is continuing to study because of the possibility of drug prices rising faster than the CPI.

The committee heard a considerable amount of evidence on recent trends in drug prices. Most of the evidence indicated that in the past year drug prices have increased at a rate in excess of the rate of increase of the consumer price index. Representatives of Green Shield Prepaid Services Incorporated, a large Ontario-based prescription drug plan, told the committee that for the period of January 1, 1987, to January 1, 1988, the average ingredient cost of the prescriptions filled

under its plans increased by 12.6 per cent. Green Shield also noted that from January 1, 1988, to the end of June of this year the average ingredient cost increased a further 9.41 per cent, whereas the CPI was 4.5 per cent.

Representatives from the Canadian Drug Manufacturers Association stated that the Ontario drug benefit formulary had shown that prices of 834 of the drugs listed in the formulary had increased by more than 5 per cent when compared to the prices listed in January of 1988. Price increases for those drugs, for the period July 1987 to July 1988, ranged from a low of 5.05 per cent to a high of 18.3 per cent. The CDMA also reported that last year the New Brunswick prescription drug plan recorded a rise of 7.3 per cent in the cost of brand-name drugs.

The committee had access to information, provided by the provincial pharmacare program in British Columbia, which indicated that drug cost increases for 1987 over 1986 averaged 7.2 per cent for brand-name products and 6.3 per cent for generic products.

The Province of New Brunswick also submitted data from the New Brunswick Prescription Drug Program. These data were supplied for three 12-month periods: July 1985 to June 1986, July 1986 to June 1987, and July 1987 to June 1988. Total increases in material costs were over 20 per cent.

An analysis of the 80 largest selling drugs in Saskatchewan indicated that they rose in price at twice the overall rate of inflation from the second half of 1986 to the first half of 1988.

Honourable senators, there is no doubt in my mind, from those few statistics submitted by the committee in its interim report, that there is a need to give more control and power to the Drug Prices Review Board.

On Wednesday, June 1, 1988, there was a statement in the *Times-Colonist* to the effect that whopping drug price hikes have the pharmacists in a flap. Many newspapers across the country are doing research themselves and report large increases in drug prices. I should like to quote from the president's report of the National Pensioners' and Senior Citizens' Federation, which represents over 450 national, regional and local affiliated seniors organizations across Canada:

> We can take little comfort in that the Pharmaceutical Manufacturers took so little time to prove that Corporate Affairs Minister Harvie Andre was (being kind of) naive when during debate on Bill C-22, he proclaimed in Parliament and out, that price increases of drugs would not exceed the consumer price index. A recent statement by Mr. Lawrence Archer, on behalf of the Ontario Health Ministry, reported that 1099 drugs on the Ontario Drug Formula are more than 5 per cent costlier on this month's price list than they were last July, while the CPA rose by 4.4 per cent. He reported a number of drug prices had increased more than 100 per cent, and one had increased 250 per cent.

In the *Windsor Star* on January 2, 1988, there was an article entitled: "Forgetting the Promise", which said:

> Those who doubted the promises of pharmaceutical drug manufacturers not to increase the prices excessively saw their misgivings justified recently when the prices of half the drugs listed on the Ontario Drug Benefits Formula were raised by more than 5 per cent. The latest inflation rate reported by Statistics Canada is 4.2 per cent a year.

● (1540)

> That the federal government is at sea on this issue is clear, it has only itself to blame.

That article went on to say that:

> Health Minister Jake Epp did not fare much better than Andre in the Commons when he rejected opposition demands that price control be retroactive. He claimed that retroactive legislation is not part of parliamentary tradition. Yet the Mulroney government did not hesitate to make the patent protection sought by brand-name drug manufacturers retroactive to June 1986. They could just as easily make price protection laws also retroactive.

Another editorial appeared in the *Toronto Star* on March 17, 1988, entitled: "No Relief In Sight as Drug Prices Soar". It included the following statement:

> Last November when the federal government pushed its controversial drug patent legislation through Parliament over loud objections from the Senate and elsewhere, Consumer and Corporate Affairs Minister Mr. Harvie Andre promised "maximum benefits to Canadian consumers and researchers."
>
> Already, members of these two groups could be excused for thinking that Andre's sure fire remedy for the drug industry looks more like snake oil.

Further on it states:

> So where's the drug prices review board that's supposed to make sure price rises don't exceed inflation? It's not yet functioning.

In article after article the press supports Bill S-15, realizing that since January of last year the price of drugs in Canada has gone up by a higher percentage than the rise in the CPI.

I want to congratulate the committee for going to the extent of travelling to different provinces to find out from their drug formularies what increases they had experienced. I look forward to the final report, which I am quite sure will show that the government was wrong to pass Bill C-22—

Senator Doody: The Senate passed it also.

Senator Bonnell: I know they did.

Senator Doody: Were they wrong? Was the Senate wrong?

Senator Bonnell: But they passed it more or less to give support to your leader, who says that all we should do is look at it and then pass it on.

Senator Doody: You were convinced that you should not pass it, but you passed it anyway.

Senator Bonnell: I was convinced that we should never have passed it.

Senator Doody: We passed it anyway!

Senator Bonnell: I am still convinced that we should never have passed it. I still think that it was a mistake.

Senator Doody: That is a matter of principle.

Senator Bonnell: I still think the government made a mistake, and people will realize that the government made a mistake. I hope that the poor, the aged, the infirm and the crippled will realize on election day what this government did to them when they took tens of billions of dollars out of our country to give to foreign multinationals, and took 9,000 jobs from the drug industry and gave them to the Americans and foreign countries of the world—85 per cent to the Americans; 15 per cent to the Europeans.

I want to support the committee on its great work, and I look forward to its final report.

Some Hon. Senators: Hear, hear!

Hon. Sidney L. Buckwold: Honourable senators, as a member of that committee, I want to say one or two words. I attended most of the meetings and was impressed with the evidence we heard. Some of it was difficult to get, but the evidence supported everything that Senator Bonnell has pointed out: there has been an advance in prices beyond what was promised by the government under the controls set, with the limit being the rise in the consumer price index. That is quite obvious.

My major reason for speaking now is to remind this chamber and the people of Canada once again that the whole business of Bill C-22, which changed a satisfactory system of drug pricing here and our prescription drug program, came about as a result of pressure put by our American friends on the Government of Canada as part of the free trade negotiations. I stand to remind the public that what we are looking at in drug prices now is one of the prices we pay for the agreement we have now, unsatisfactory as it is in the eyes of some of us.

We had a prescription drug program that was as good as anything in the world. It was the envy of most countries of the world. We had changed Canada from the country with the highest drug prices, before the legislation put in by the Liberal government some years ago, to a country where the prescription drug prices were the lowest of any of the industrialized countries.

I want to remind my friends across the way. Although we hear denials that it has nothing to do with free trade—

Senator Doody: You should not have passed the bill. I do not know why you let it go through if you felt so strongly about it.

Senator Buckwold: I will come to that if you wish, but I do not like to change the subject.

Every piece of evidence that I have been able to examine concerning Bill C-22 brings us back to the pressure put by the pharmaceutical lobby in Washington to get that so-called "level playing field" in Canada. I want to remind Canadians that we are paying the price for that today.

The deputy leader wanted to know why some of us abstained. We abstained so that this can go to committee. We want the committee to hear people. We want the Canadian public to have an input, which they did not have under the House of Commons committee. We are anxious to let the people decide.

Senator Frith: Hear, hear!

Senator Buckwold: They will decide it partly through the work of the committee. We are not going to block the bill. Let the committee look at it. I can assure you that they will give it much more consideration. It will be much more open to the Canadian public and to all aspects of Canadian opinion than the committee which railroaded it through the House of Commons.

Senator Frith: Hear, hear! Well said, Senator Buckwold!

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this order is considered as having been debated.

CANADIAN CENTRE FOR MANAGEMENT DEVELOPMENT BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Ottenheimer, seconded by the Honourable Senator Bazin, for the second reading of the Bill C-148, An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof.—(*Honourable Senator Pitfield, P.C.*).

Hon. P. Michael Pitfield: Honourable senators, I welcome this opportunity to say a few words with respect to the proposal for the establishment of a Canadian Centre for Management Development.

I think it is safe to say that parliaments and cabinets are, as a rule, not interested in the Public Service.

While this is understandable, because the Public Service is a big and complex institution and there are not many votes in mastering its technicalities, parliamentary and cabinet indifference is nonetheless regrettable, because the Public Service is probably the single most important instrument we have for increasing efficiency and eliminating corruption in government, and for building national unity and maintaining democracy in our country.

Happily, the Senate has been, from time to time, the exception to the general history of disinterest. Its reports on such matters as the management of employment programs, the organization of the Department of Public Works and the procedures for the acquisition of supplies and services have made significant and lasting contributions to the well-being and excellence of the Public Service, as well as to government in our country.

That the Senate should now take a careful look at the proposed Canadian Centre for Management Development is

entirely in keeping with that tradition and will, I am sure, be no less productive, for we are told that this centre will be of vital importance and not merely of national but of international significance. The government spokesman, in introducing the bill in the other place, called it no less than a piece of legislation that marks a turning point in the history of the Public Service of Canada. That is to say a great deal, and I am prepared to take it at face value. But then I wonder how the members of the other place could deal with this landmark legislation, as they did, through all stages in hardly more than half an hour.

● (1550)

I must also confess to being somewhat troubled to read in *Hansard* the words of another government spokesman praising the great accomplishments recently in the Office of Personnel Management under President Reagan. That is certainly not the view of administrators and teachers in the United States, particularly with regard to the Office of Executive Personnel Management. There it is widely believed that the mandate of the OPM, under President Reagan, has been to politicize the career public service and take apart what is left. If that is to be our role model, as some say is the government's real intention, we are headed for a terrible disaster. But I take it that we in the Senate will have an opportunity to hear more about that in committee.

Likewise—and always keeping my faith high and my cynicism in check—I trust we will hear more about the independence that Senator Ottenheimer spoke of in this chamber when introducing the bill. To me, the bill sets up a new department of government, neither more nor less, and, though it is to have an advisory committee of some sort, that committee's terms of reference are very advisory.

Of course, whether or not that matters depends upon what the centre is to be concerned with and what it is to do. The answer seems to be that it will be a government department concerned with management defined very broadly from basic operations to high strategy; from economics to law, to science, to political science, to business administration. This does indeed imply a very large academic program.

In essence, what this bill does is to establish within the federal government nothing short of a somewhat specialized, but nonetheless major, university with campuses in Ottawa and at Tourraine, and facilities in Atlantic and Western Canada. This body, in the form of a new department of government, is to have, besides a teaching staff, an information dissemination capacity of size and a research capacity of size. Obviously, the question of independence becomes key—and also the question of how large these facilities are to be. In the words of the government PR document, which is the only information we have so far, this is to be "a new, credible, national, world-class centre of excellence". More power to it. What is it to teach? Here the information so far provided is soft. Almost everything is promises.

To the roll-call—with which many of you will be familiar—of PPBS, OPMS, SPICE, IMPAC and PEMS is added IMAA, and I suspect that not a single member on the government benches in this house can tell us what that is, except that it has to do with ministerial responsibility. Since that recalls the discussion here of the recent government bills for the Departments of Western Initiatives and of Atlantic Opportunities, IMAA is hardly very convincing. But again, honourable senators, in the committee we shall see.

What will the new centre research? We are told that it will produce case studies. That is excellent. The greatest obstacle to the deplorably insignificant production of Canadian case studies has been government secrecy, and the government can certainly reduce that. But does it need a centre for management development to do it?

Again, we are told that the centre will assist the Treasury Board's efforts to eliminate levels in the bureaucratic hierarchy. An excellent idea. The British government pioneered in that area ten years ago and did massive eliminations three or four years ago. Why does Treasury Board need a separate research staff to learn about that?

Indeed, what is this centre going to cost? Where will the funds come from? What is going to be cut to make it possible? Is the money going to come out of departmental training budgets? If so, then what about this business about the centre as a symbol of doing "a better job with fewer resources" as a symbol of decentralization—in a word, de-bureaucratization. Some decentralization! But we will find out about all of this in committee.

Also in committee I hope we will learn about the implications for the Canadian university community of the establishment of this centre. Proponents of the bill are long on promises to consult. My question is: Why is that being proposed for after the centre is established rather than for before?

Proponents of the bill have also spoken of the centre taking as students senior provincial public servants, private-sector managers, managers in crown corporations and foreign students. The centre is to be "partly financed by Parliament, but with the flexibility to raise funds elsewhere and to enter into joint ventures anywhere in the world." This diversion of funds, this major government intervention will be, indeed, keen competition for our universities and their various schools of government and public administration, and the committee will want to hear from them their endorsement of what is proposed.

It is palpably not true to say that schools of public administration in Canada are concerned with naught but policy analysis. To the limited extent that it is true that our universities are lacking in facilities to teach practical public-sector management, whatever that is, the federal bureaucracy has its fair share of the blame to carry for keeping the private and university sectors out. One may well ask how objective and how intellectually excellent the Public Service will be after giving play for a few years to this inherent exclusionary tendency—and let us not pretend that the advisory committee will be any correction in this regard.

Whatever the saw-off in costs and mandates between the Canadian university system and this new "credible, national, world-class centre of excellence in teaching and research into

public sector management", what that trade-off will be I believe the committee should consider carefully. It should especially consider the points Senator Bosa made when speaking on the bill the other day: What will be the consequences, first, for the country and, second, for the universities of the bifurcation of the field of study, the resources and the intellectual community in the field of government and public administration as between the federal government on the one hand and the universities on the other? Are we so rich, are the communities so large as to justify doing our training and development separately?

In the past, when a separate, exclusively government-sponsored institution for training public servants was considered at this level, it was concluded that the university sector in Canada would be greatly weakened and reduced by it; that the Public Service would become isolated from mainstream Canada by it; that variety and flexibility in the Public Service would be dramatically reduced by it; that bureaucratic nepotism would inevitably increase under it; that there would be a real danger of increased mandarin arrogance as a result of it; that inevitably a somewhat isolated, somewhat superior bureaucracy would keep Parliament and parliamentarians more and more at arm's length as a result of it.

● (1600)

No doubt the new centre has been devised to avoid these pitfalls. The committee should examine how this is to be done and solicit the views of the universities, individual public servants, other deputy heads and union leaders as to what they think.

All of this leads to the emphasis by government spokesmen on the role of the centre in enhancing the corporate identity of the Public Service. There will be some who find the stress on this purpose very disquieting. That the Public Service, with its size and power and quality, needs the centre to rally around raises the question: "To rally around against what? Or against whom?", and suggests that things are in a bad state, indeed.

Beware the siege mentality, especially in major governmental institutions.

Closely related to that question, and perhaps a cause for the outward appearance, is the view of the centre as "the heart and the soul of the federal management cadre." The committee will want to listen carefully, for, if one thing is clear, it is that the centre is intended "to belong to its clients, the members of the management category." What are the implications of that?

The Liberals in the other place may have been closer to the mark than they realized. We must ask bluntly: Is this centre, in fact, a national school for government administration? Is it to be an école nationale d'administration, an ENA, an institution designed as a pressure cooker to recruit and develop an elite—something like the French have so dominantly in their public administration, government and politics; something like the British had and are still trying to come to terms with doing away with?

Senator Frith: What was the British one?

Senator Pitfield: The administrative class or the principal system.

Finally, the development of a recruiting role, the so-called "fellowship" program, and the designation of the Secretary to the Cabinet as chairman of the advisory board all suggests significant changes from the present system for personnel management in the Public Service. Heretofore there have been shared responsibilities between the Treasury Board, the Public Service Commission and departments. The role of the Privy Council Office has been restrained. In short, the system we have for personnel management in our federal government has been carefully designed and carefully balanced with many considerations and long experience in mind. On the whole, it works pretty well, though every player always wants more power. Now, this system seems to be significantly changed and, while it may be an improvement, it must be clearly demonstrated as being so. Training and research and public information responsibilities are now being redistributed. What, then, is the new situation to be? How is it to work? And what is the justification for it?

It is terribly important for Parliament to know the answer to those questions, for the basic role of the Public Service in encouraging efficiency and eliminating corruption, in building national unity and maintaining democracy, is ultimately at issue.

The signs are indeed that the centre for management development is an important initiative. It may be an exellent one, but then we are brought back to the question of how it is to be made independent and what its connection to Parliament is to be.

In this regard, the great importance of the Public Service as an instrument for increasing efficiency, fighting corruption, building national unity and maintaining democracy in our country and the nature of the Senate should perhaps lead us to consider having a special or a standing committee look at Public Service questions. Truly, these are matters extremely influential and often determinant in what the government does and how it does it.

The Canadian Centre for Management Development raises important questions on many of those issues. I urge senators to examine the proposal carefully, because important choices with far-reaching ramifications are being made.

I am glad to note that no one has alleged that there is great urgency to the passage of this bill. The substance of what it proposes has already been put under way by various ad hoc measures, and they can continue to work while what is being proposed for legislation is adumbrated.

Once passed into legislation, the centre and its activities will not quickly come back to parliamentary examination, much less easily open themselves to reconsideration or revision; so, if Parliament is to get the understanding of what is being proposed that it has certainly not so far had, it had better act now.

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?

On motion of Senator Doody, bill referred to the Standing Senate Committee on National Finance.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

CONSIDERATION OF SIXTY-FOURTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixty-fourth report of the Standing Committee on Internal Economy, Budgets and Administration (allegations against Senator Argue, P.C.), presented in the Senate on September 14, 1988.

Hon. Roméo LeBlanc: Honourable senators, I move the adoption of the report.

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, if no one wishes to speak to this motion at this time, I adjourn the debate. Some senators have not yet had an opportunity to study the particular document and they may wish to speak to it at a later time.

On motion of Senator Doody, debate adjourned.

CANADA-UNITED STATES FREE TRADE AGREEMENT

INQUIRY—ORDER DISCHARGED

On the Order:

> Resuming the debate on the inquiry of the Honourable Senator Gigantès calling the attention of the Senate to the Canada-U.S. Free Trade Agreement.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this order is an inquiry, initiated by Senator Gigantès, referring to the Canada-U.S. Free Trade Agreement. I spoke to Senator Gigantès yesterday and he agrees that this particular inquiry has been exhausted, as it were, although he has another one on the order paper somewhere else referring to the same subject. This particular one stands in my name, and I feel that it should be discharged.

Senator Frith: And Senator Gigantès agrees?

Senator Doody: Yes.

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

Hon. Senators: Agreed.

Order discharged.

• (1610)

SOVIET UNION

MOTION ON RELIGIOUS FREEDOM—DEBATE ADJOURNED

Hon. Stanley Haidasz, pursuant to notice of Wednesday, September 14, 1988, moved:

[Senator Pitfield.]

That,

Whereas 1988 marks the Millennium of Christianity in Kievan Rus, providing an occasion for all men and women of good will to celebrate the great spiritual heritage carried by the peoples of the Soviet Union—Catholic, Orthodox, Protestant, Jewish, Muslim, Buddhist;

And whereas religious freedom has been acknowledged as a fundamental human right in such landmark international conventions as the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights, the Convention Against Discrimination in Education, the Helsinki Final Act, the United Nations Declaration Against All Forms of Religious Intolerance—agreements to which the U.S.S.R. government has solemnly pledged its adherence;

The Senate of Canada appeal to General Secretary Mikhail Sergeyevich Gorbachev to honour the U.S.S.R. government's commitments to these aforesaid international agreements, to declare a general amnesty for all religious prisoners of conscience, and to legalize the Ukrainian Catholic Church, the Ukrainian Autocephalous Orthodox Church, the Ukrainian Orthodox Church, and all other religious groups, assuring thereby all the peoples of the U.S.S.R. the right of religious freedom and practice.

He said: Honourable senators, on August 30 I made a rather lengthy speech on the topic of the Millennium of Christianity in Kievan Rus, and an appeal for a resolution, as stated in the last paragraph of the present motion.

I draw to your attention that the Ukrainian Catholic Church was delegalized in 1946. Its bishops and 1,500 priests were imprisoned and some were even killed.

This whole topic was discussed at length in hearings held by the House of Commons Committee on Human Rights. In its report the committee mentioned the persecution of the churches, religious groups and their adepts in the U.S.S.R. Resolutions somewhat similar to this one, of which I gave notice yesterday, were moved in the Senate and the House of Representatives of the U.S.A.

I believe this resolution is very important, not only to men of good will but, in particular, to Canadians of Ukrainian background.

The celebrations will peak Thanksgiving weekend here in Ottawa, with the Prime Minister delivering the main address.

In conclusion, I would add that the right of religious freedom and the right to life are, I believe, the most fundamental human rights. I believe you will agree with me that one of the best champions of these rights is none other than Mother Teresa, often referred to as "The Living Saint of Calcutta". Mother Teresa, the foundress of the Catholic Missionary Nuns of Charity, has been recognized as a great humanitarian devoted to the poor, the sick, the abandoned and the dying, without regard to their religion, colour or ethnic origin. I am

pleased to remind honourable senators that Mother Teresa received the Nobel Peace Prize in 1979 for her charitable work.

On Saturday Mother Teresa will be taking part in and speaking at a national pro-life rally in front of the Peace Tower. She will be available, if you wish to meet her, in my suite in the East Block. I believe all honourable senators would like to join with me in wishing Mother Teresa an enjoyable and successful visit to Parliament Hill.

Hon. Senators: Hear, hear!

On motion of Senator Molgat, debate adjourned.

THE SENATE

MINUTES OF THE PROCEEDINGS—CORRECTION

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I rise on a point of order.

Senator Doody: Perhaps it should be called a "point of correction".

Senator Frith: Yes, that is probably a more apt description.

On page 3412 of the *Minutes of the Proceedings of the Senate* for Wednesday, September 14, the *Minutes* reflect the proceedings of the Senate on Bill C-205, to protect heritage railway stations. The *Minutes* reflect that the motion for third reading was moved by Senator Turner, and the *Minutes* then read as follows:

> After debate,
>
> In amendment, the Honourable Senator Turner moved, seconded by the Honourable Senator Sinclair, that the Bill be not now read the third time but that it be referred back to the Standing Senate Committee on Transport and Communications for further study.

That motion was carried.

The difficulty that arises is that I do not think any of us were quite clear that Senator Turner had moved both the motion and an amendment to his own motion. The only way that can be done is with leave under rule 23, which says:

> A senator who has made a motion or presented an inquiry may withdraw or modify the same by leave of the Senate.

I do not think there was any doubt that Senator Turner had the leave of the Senate, but it was not specifically noted.

Therefore, I ask leave for our unanimous decision that we simply add to the *Minutes* an amendment that would read that the Honourable Senator ". . . with leave, moved . . ."; otherwise we might be creating an undesirable precedent.

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

Hon. Senators: Agreed.

The Senate adjourned until Tuesday, September 20, 1988, at 2 p.m.

THE SENATE

Tuesday, September 20, 1988

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

Prayers.

HERITAGE RAILWAY STATION PROTECTION BILL

REPORT OF COMMITTEE

Hon. Charles Turner, Acting Chairman of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, September 20, 1988

The Standing Senate Committee on Transport and Communications has the honour to present its

THIRTEENTH REPORT

Your Committee, to which was referred Bill C-205, An Act to protect heritage railway stations, has, in obedience to the Order of Reference of Wednesday, September 14, 1988, examined the said Bill and has agreed to report the same without amendment.

Respectfully submitted,

CHARLES TURNER
Acting Chairman

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

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

QUESTION PERIOD

THE ENVIRONMENT

NUMBER OF PERSON-YEARS IN DEPARTMENT—EFFECT ON DEPARTMENT'S PROGRAMS

Hon. Colin Kenny: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate. In light of the government's renewed commitment to the environment, could the Leader of the Government please comment on the recent statements made by Mr. Ted Marks, Director of Personnel, Policy and Systems, Department of the Environment, that a further 361 person-years will be cut by that department in the coming year?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the responsible minister, Mr. McMillan, dealt with this matter in some detail yesterday in the House of Commons. I have nothing to add to the statements he made.

Senator Kenny: I must say that I am confused to some extent by his comments in *House of Commons Debates* in which he makes reference to additional staff being added to the Department of the Environment, but is not clear on those who have been added or where they have been added.

When Mr. McMillan was speaking to the Speech from the Throne on October 10, 1986, he assured us that the size of his department would stay the same or, in fact, grow larger. Over the past four years the department has decreased by 336 person-years. Now we hear of an announcement of an additional 300-odd person-years being cut. I am left confused by the minister's inconsistencies.

Could the Leader of the Government here clarify it for the chamber?

Senator Murray: Honourable senators, I shall speak to my colleague Mr. McMillan to see whether he can allay my honourable friend's confusion.

However, I point out to him and to the Senate that the story of the environmental policies and programs of this government is not to be told simply in a reading of the number of person-years in a particular department. Other decisions have been taken and programs have been announced. For example: the South Moresby decision; the creation of several new national parks; and the subagreement under ERDA for the cleanup of Halifax Harbour.

A number of decisions have been taken in the environmental field that may be outside the immediate purview of the Department of the Environment, but which represent a substantial commitment, in terms of policy and human and financial resources, on the part of this government to the Canadian environment.

Senator Kenny: That is precisely the concern, honourable senators. In dealing with CEPA, and as we have seen some of these initiatives come forward, we have been referring continually to our concern about the person-years available to carry them out. What we are seeing is new initiatives without substance or support behind them. If we cannot rely on the government's own figures, I do not know what we can rely on.

My question is: Given the new initiatives that the department is taking on; given the fact that the department has been reduced by 336 person-years in the past four years; and given that the department itself is indicating that it will have a

further reduction of over 300 person-years, how will the department accomplish its own objectives?

Senator Murray: Honourable senators, I do not necessarily accept—and I am sure that Mr. McMillan would not accept—all the assertions in the premise of the honourable senator's question.

However, it is a fair question to ask us to show how we will provide the human resources for the various commitments that the government is undertaking in this field. I shall ask for a direct reply to that question and I shall bring it in.

ENVIRONMENTAL PROTECTION SERVICE—NUMBER OF PERSON-YEARS

Hon. Roméo LeBlanc: Honourable senators, I should like to ask a supplementary question.

In his answer the Leader of the Government in the Senate indicated that the maintenance of the budget of the department can be examined, if one looks at the creation of new national parks, and so on. That really begs the question.

The reality, when we talk about the protection of the environment, is the specific service called the Environmental Protection Service, which is the guts of the Department of the Environment in terms of the protection of citizens vis-à-vis products like Myrex, dioxins, and so on.

I would like to know if there has been a reduction of personnel in that division of the department called the Environmental Protection Service. Some of us remember with sadness the destruction of or threat to the program, which had been historically important, for the collection of gull eggs, which told us a great deal about the health of the Great Lakes.

Are we not mixing oranges and apples by pretending that the creation of national parks, as important and as positive as that is, does not deal with the issue of Environmental Protection Service, which is part of the laws of this country?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, again it is a fair question to ask whether there has been any diminution in the activities, the staff or the budget of the Environmental Protection Service's part of the department. However, I do not accept the premise and the assertion of the honourable senator that the government's environmental policy can be measured simply in terms of the activities of one particular branch or service.

The federal-provincial agreement to clean up Halifax Harbour, for example, is an important contribution to the environment and to the economy in that region. So is the creation of several new national parks. I believe the honourable senator unnecessarily and unduly limits the scope and the field of action of the government on the environment.

● (1410)

INSPECTION OF PCB STORAGE SITES—AVAILABILITY OF INSPECTORS

Hon. Colin Kenny: Honourable senators, I have a further supplementary. We read today that Ottawa is considering enforcing PCB safety standards in the event that provinces are unable to do so.

Honourable senators, when we passed the CEPA bill recently, we were concerned that there were only 56 inspectors in the whole country. We now have a consolidated list that details the thousands of storage places that contain PCBs, and it is unclear how the government intends to handle the inspection of those storage places, given the fact that it does not have enough staff now in that area and is contemplating further cuts.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Again, the honourable senator is adding two and two and getting five; he is making assertions about cutbacks which may or may not relate to the particular activity he is describing. There will be an announcement before too long from my colleague Mr. McMillan with more details about how the government proposes to pursue and attack this PCB problem.

TRANSPORT

TRANSPORT ROUTE CANADA INC.—OHIP COVERAGE FOR EMPLOYEES

Hon. Charles Turner: Honourable senators, I have a question for the Leader of the Government in the Senate concerning Transport Route Canada Inc. Over the weekend I received many calls from laid-off employees of the company informing me that, when they call OHIP officials with respect to their coverage in Ontario, they are told that, according to the computer, their premiums are paid only until the end of September. They have been in touch with the company and also with their union representatives, but have received no satisfaction with respect to this matter. Regarding OHIP premiums for these employees, I understand they are supposed to be paid three months in advance. What will happen at the end of September, when the coverage for these employees runs out?

Honourable senators, this is a serious matter for the employees of this company across Canada. Apparently, the Department of Labour has put in an auditor to deal with these matters, but can the Leader of the Government in the Senate give me any assurance that this matter will be taken care of?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I can only tell my honourable friend that the Department of Labour will use all measures available to it under the Canada Labour Code to ensure that employees receive all of their entitlements. Transport Route Canada Inc. has informed the minister that it is winding down its business, and, as the honourable senator knows, officials are auditing the company's payroll records to determine employee entitlements.

Senator Turner: Honourable senators, does the Leader of the Government in the Senate think it advisable that the employees of this company go to the various OHIP offices across Ontario to make individual payments for their next

three-month coverage? It is very important, in case of sickness, that these employees have complete hospital coverage.

Senator Murray: Honourable senators, I shall have to make inquiries about that matter.

THE ENVIRONMENT

ISSUANCE OF LICENCE FOR RAFFERTY-ALAMEDA DAMS PROJECT—PROTECTION OF MANITOBA'S INTERESTS—RESPONSIBILITY OF GOVERNMENT TO CONDUCT STUDY

Hon. Gildas L. Molgat: Honourable senators, my question to the Leader of the Government in the Senate is also on an environmental matter. Last Tuesday I asked him a question regarding the federal licence that had been issued to the Saskatchewan government to proceed with the Rafferty-Alameda Dams project in Saskatchewan on the Souris River. At that time the leader indicated that he would try to get some further information on that matter. Does he have the information for me today?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I understand my honourable friend, the Deputy Leader of the Government, has a delayed answer on that matter.

Senator Molgat: I then have a specific question which perhaps the Leader of the Government in the Senate can answer now. If a province requests a federal licence for a water-control project on a river that flows through another province, does the federal government have a responsibility to conduct a study to establish the effect on the downstream province before issuing such a licence?

Senator Murray: Honourable senators, I shall ask the appropriate minister to examine the statutes and the policy on that matter.

DISTINGUISHED VISITORS IN GALLERY

UNITED KINGDOM SELECT COMMITTEE ON TELEVISING HOUSE OF COMMONS' PROCEEDINGS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, may I crave your indulgence for just a few moments? I simply want to call to the attention of honourable senators the presence in the gallery of a distinguished group of visitors from the United Kingdom. We have with us the Select Committee on Televising of Proceedings of the House of Commons—

Senator Murray: A bad idea!

Senator Doody: —which is here to view and to try to understand the pros and cons of that particular innovation.

An Hon. Senator: Don't do it!

Senator Doody: The delegates are led by Mr. David Hunt, M.B.E., MP. Mr. Hunt is also Treasurer of Her Majesty's Household and Deputy Chief Whip of the Government.

[Senator Turner.]

We welcome these distinguished visitors and hope that they have a pleasant and informative stay.

Hon. Senators: Hear, hear!

THE MINISTRY

REQUEST FOR APPOINTMENT OF MINISTER OF STATE FOR COOPERATIVES—LACK OF RESPONSE

Hon. Hazen Argue: Honourable senators, I have a question for the Leader of the Government in the Senate. It has to do with the recent cabinet shuffle and the recognition given to forestry and multiculturalism by appointing particular ministers and having particular departments.

Can the Leader of the Government in the Senate say what consideration has been given to the longstanding request of the cooperative movement of this country to appoint a minister of state for cooperatives? In commenting, will the minister indicate whether he has any knowledge of what is being done to deal with or answer the requests of the cooperative movement for consideration with regard to their participation in health projects and housing projects and, in particular, their request and concern about the need for recognition of an equity type of financing?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that responsibility was assigned some time ago by the Prime Minister to my colleague the Honourable Charles Mayer, Minister of State for Grains and Oil Seeds. If I may say so, he is discharging his responsibility with his usual vigour and competence.

Senator Doody: Hear, hear!

Senator Argue: Honourable senators, I believe the minister has misunderstood my question or he is answering another question. My question was: Why was there no response to the request of the cooperatives that a minister of state in charge of cooperatives be appointed? The cooperatives do not want a minister who has a small secretariat buried somewhere in his department—I should not say that, but in his department considering cooperatives. The cooperatives want their own minister, their own department.

Senator Murray: Honourable senators, they have their own minister in Mr. Mayer. The fact that he has other responsibilities does not impede him from discharging his responsibility on behalf of cooperatives and to the cooperative movement in a highly effective way. He is their champion in cabinet and, indeed, in Parliament. The short answer to the honourable senator's question is that it is not proposed at this time to set up a separate ministry of cooperatives.

Senator Argue: So the answer to the cooperatives' request for a separate minister is "no".

Senator Murray: That must be obvious!

Senator Argue: I was asking about what consideration had been given to the matter. At least I am glad to get a smile.

CANADA-UNITED STATES FREE TRADE AGREEMENT

GOVERNMENT PUBLICITY CAMPAIGN—COST—STATUS DURING ELECTION—AVAILABILITY OF PUBLICATIONS IN OTHER LANGUAGES

Hon. Azellus Denis: Honourable senators, may I ask a question of the Leader of the Government in the Senate? Many times I have asked the minister for the figures on the cost of publicity in favour of the Free Trade Agreement. I suspect that he does not intend to give me an answer before the election is called. It would be a good thing for the people of Canada to know the approximate cost. How many millions of dollars have been and will be spent on advertising this Free Trade Agreement?

● (1420)

If, as I suspect, we are not to be given the exact amount of money spent on publicity, would it be possible for the government to give us an approximate figure in terms of millions of dollars before the election is called?

Senator Argue: Twenty-six million dollars.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the government has not tried to keep secret the amount of money being spent on the public information program regarding free trade. Indeed, on several occasions my colleague Mr. Crosbie and others have been quoted in the national media as having stated that a certain amount had been spent up to that point.

I have asked for the latest statistics and I will not hesitate to bring them in.

Meanwhile, I must take exception to the fact that the honourable senator attributes to me some base motives in not bringing forward the information. I will bring it forward when it is available to me from my colleague. I am not concerned about holding back or hiding information. The honourable senator must be speaking from a guilty conscience on the basis of his 40-odd years in the Liberal Party.

Senator Argue: Fifty-three.

Senator Denis: In response to a question asked by a member of Parliament in the other place, Mr. Crosbie said that $1.5 million had been spent on seminars, $1.5 million on radio advertising and $1.5 million on television advertising; but not a word was mentioned about the cost of the publicity involved in the publication of dozens of pamphlets and booklets. It is my understanding that there are three dozen different types of pamphlets and booklets regarding the Free Trade Agreement. I suspect that the cost of publishing hundreds of thousands of each of those three dozen different pamphlets and booklets would amount to hundreds of thousands of dollars. It is my information that those pamphlets might be translated into three or four different languages—Italian, Chinese, Portuguese, Greek, et cetera.

Senator Doody: Newfoundland.

Senator Denis: Many nationalities are being forgotten.

I would point out that the Gallup poll does not indicate a big majority in favour of the Free Trade Agreement at the present time, and those against the Free Trade Agreement have not spent one cent to put forward their views.

I want to know if the government intends to translate those publications into other languages, such as Inuit, Polish, German and Ukrainian. In terms of numbers, these languages are as important in Canada as those others.

I want to know if the government intends to continue to spend large amounts of money without informing the public what is being done with it.

Senator Murray: Honourable senators, first of all, I must say that the honourable senator should read the polls more carefully than he apparently has done. There is less opposition to the Free Trade Agreement today than there has been at any time; the support for the Free Trade Agreement is considerable and, indeed, in the majority in most parts of the country, including, I may tell him, his own province.

Secondly, this Free Trade Agreement is one that, by all the evidence, will have a very important and positive impact on incomes, on employment, and on standards of living in this country.

Senator Frith: All of the evidence you choose to read.

Senator Murray: It will add billions of dollars to our gross national product. I find it very strange indeed that the honourable senator would begrudge a few hundred thousand dollars or, indeed, a few million dollars spent on a public information program.

Senator Frith: Public information? You mean propaganda for the government. At least be as honest about that as you have been about the rest.

Senator Murray: Yes, honourable senators, it is true that publicity campaigns of this kind do not come cheap. Yes, it is true that—

Senator Frith: Of course!

Senator Denis: How much? How much?

Senator Argue: Stick it on the deficit!

Senator Murray: Yes, it is true that we live in a multicultural society, and we take it as an obligation of the Government of Canada to provide in as many languages as possible, in addition to our two official languages, the information that people need in order to judge the effects of these important policies.

Senator Frith: Stop saying "information"! You don't give any information except the government's position.

Senator Denis: I have a supplementary question. Does the government intend to keep on publicizing the Free Trade Agreement during the election?

Senator Murray: Honourable senators, that question has been asked before. Any activities that the government undertakes by way of public information during the election campaign—

Senator Frith: "Public information", for goodness sake!

Senator Murray: —will be in strict observance of the Canada Elections Act.

Some Hon. Senators: Hear, hear!

GOVERNMENT PUBLICITY CAMPAIGN—REQUEST FOR DISTRIBUTION OF MATERIAL GIVING OPPOSING VIEW

Hon. Philippe Deane Gigantès: Honourable senators, I should like to ask the Leader of the Government in the Senate whether, to balance the debate and to show both sides, the government would distribute, on the same basis that it has been distributing its own propaganda, a collection of essays edited by Professor Duncan Cameron.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): No, honourable senators. The government, unlike my honourable friend's party, is committed to the Free Trade Agreement and is united on the proposition.

Senator Frith: What was that again? Could we have that again, please?

Senator Gigantès: If the government is not prepared to put the other side, but only its own side, is that truly information? Is that debate or is it propaganda?

Some Hon. Senators: Propaganda!

Senator Murray: Honourable senators, the responsibility of the government is to put our side of the question to Parliament and to the Canadian people.

Senator Guay: In an honest way!

Senator Murray: And that we are doing! My honourable friend and those who agree with him in the other place will have that opportunity as well.

Senator Frith: Will you allocate taxpayers' dollars to us to do that? It is an excellent offer. If you make it, we will accept.

Senator Murray: Taxpayers' dollars are already allocated to enable members of the opposition to put their message across.

Senator Frith: The same amount as you put to your side?

GOVERNMENT PUBLICITY CAMPAIGN—PRECEDENCE FOR COST

Hon. Azellus Denis: Could you name one bill passed in this house or any place else that has had more costly propaganda?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I have already told the house, in answer to questions from my honourable friend, that there is ample precedent in this country for governments to carry on public information campaigns, including paid advertising campaigns, in support of their policies, even before some of those policies have been sanctioned fully by Parliament. I need only remind him of the Canada geese that we saw flying on television a few years ago, when the Trudeau government embarked on its ill-fated, unilateral attempt—

[Senator Murray.]

Senator Frith: How much did that cost?

Senator Murray: —to patriate the Constitution.

Senator Denis: I mean as expensive. Could he name one bill, whether by the Conservatives or the Liberals, Canadians or Americans, that cost that much?

Senator Murray: Allowing for inflation and so forth, I should like to look at the cost of the infamous six-and-five propaganda package developed by my friend Senator Davey, and his friend Senator Sinclair, not so much on behalf of the government as on behalf of the Liberal Party, with taxpayers' funds, a few years back.

• (1430)

Senator Frith: It is "infamous" to you because it was so successful.

Senator Denis: Would the Leader of the Government in the Senate report on both the cost of the publicity for the six-and-five program and the cost of the publicity for the Free Trade Agreement?

Senator Frith: Yes, please carry on both investigations.

PRINCE EDWARD ISLAND

PROPOSED FIXED CROSSING TO MAINLAND—REQUEST FOR COST ESTIMATES—VERACITY OF NEWSPAPER STATEMENT—ENVIRONMENTAL IMPACT OF FIXED CROSSING—CREATION OF JOBS IN PROVINCE

Hon. M. Lorne Bonnell: Honourable senators, to get away from the Free Trade Agreement for a change—

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Where do you stand on it?

Senator Bonnell: On the fixed link?

Senator Murray: No, on the Free Trade Agreement.

Senator Bonnell: I stand for staying together and keeping Canada as one nation, separate and apart, so that we can be governed by the Canadian Parliament and make our own laws and rules, and not be dictated to by a foreign land.

Some Hon. Senators: Oh, oh!

Senator Bonnell: However, that is not the subject of my question!

I read in the newspaper the other day that the government had viewed the engineering proposals of several firms for a fixed link to Prince Edward Island. It has been reported that the government has given its blessing to several of those firms and has asked for cost estimates. It was also reported that the proposal costing the least would get the contract. Could the Minister of State for Federal-Provincial Relations advise honourable senators whether that statement is true?

Senator Murray: Not quite, honourable senators. I can tell my friend that my colleague, the Minister of Public Works, Mr. McInnes, committed the government to a schedule of decisions with regard to this matter some time ago. We will do

our best to abide by that schedule and to meet the deadlines the Minister of Public Works has set.

Senator Bonnell: Could the Leader of the Government in the Senate advise us, since the Minister of State for Federal-Provincial Relations cannot, if, in fact, the government of the day, or the Minister of Public Works, has asked certain engineering firms to prepare cost estimates of their proposals for a fixed link?

Senator Murray: Honourable senators, I expect Mr. McInnes will be making an announcement on the generality of the subject raised by the honourable senator very soon.

Senator Bonnell: Is the leader suggesting that there has been no announcement yet and that the government has not stated that it has reviewed the engineering proposals of different firms, has rejected some and has asked other firms to prepare cost estimates?

Senator Murray: Honourable senators, I shall ask for a report on the matter from Mr. McInnes.

Senator Bonnell: When he is talking to Mr. McInnes, will the leader ask Mr. McInnes to take into consideration not only the cost of the fixed link but also the environmental impact and how the fishermen will be affected? Will the leader also ask what type of steel will be used on the fixed link and how far apart the pillars will be?

Senator Doody: And how many boats!

Senator Bonnell: Moreover, will the leader find out if Prince Edward Island will in fact have an opportunity to have this construction take place on the Prince Edward Island side rather than on the New Brunswick side so that jobs can be created for Prince Edward Island—jobs not only related to the construction of the fixed link but for the future?

Senator Murray: There, again, honourable senators, I shall have to ask my colleague Mr. McInnes for a report on those matters.

I am glad to see that the honourable senator, while he has not quite declared himself in favour of the project, seems to be tiptoeing in that direction.

Senator Bonnell: No, the honourable senator is not tiptoeing either way; he is just trying to protect the environment and create jobs for Islanders while making sure that they are informed before the government takes any major decisions that affect their future—decisions that could be of a permanent nature.

Senator Murray: How did you vote in the plebiscite?

[*Translation*]

REFUGEES

GENERAL AMNESTY—GOVERNMENT POLICY

Hon. Gildas L. Molgat: Honourable senators, I should like to direct a question to the Leader of the Government in the Senate concerning immigration. A few days ago Mr. Fairweather, who now shares some responsibility in this field, commented on the issue of amnesty for refugees, but later on the minister made statements to the contrary. Since then the refugee situation has not changed very much. Perhaps it has even grown worse.

Could the Leader of the Government in the Senate tell us whether the government is considering a general amnesty for refugees?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, no such decision has been made.

[*English*]

OFFICIAL LANGUAGES

1988 BUDGET ALLOCATION FOR PROMOTION OUTSIDE QUEBEC

Hon. Dalia Wood: I should like to ask a question of the Leader of the Government in the Senate. Last year Ottawa spent $18 million to promote French outside Quebec but only $2 million to promote English inside Quebec, and the two minorities are approximately equal in size. On the weekend Secretary of State Lucien Bouchard said that there would be no increase in the moneys to Quebec. Can you provide the amount of money set aside in the 1988 budget for the promotion of our two official languages throughout the rest of Canada?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, that kind of detailed information should be sought in writing and it will be provided in writing.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to four questions. I have an answer to a question asked by Senator Olson on September 1 regarding Agriculture—Alberta Drought Relief Program—Criteria for Qualification; a question asked on September 12 by Senator Argue regarding Agriculture; and a question asked on September 13 by Senator Molgat regarding the Environment—Issuance of Licence for Rafferty-Alameda Dam Project. I ask that these be printed as part of today's proceedings.

THE ENVIRONMENT

ISSUANCE OF LICENCE FOR RAFFERTY-ALAMEDA DAMS PROJECT—PROTECTION OF MANITOBA'S INTERESTS

Hon. Gildas L. Molgat: Senator Doody, is the response on the Rafferty-Alameda Dam Project question lengthy?

Hon. C. William Doody (Deputy Leader of the Government): No, it is only two paragraphs, senator, if you wish me to read it.

Senator Molgat: Would you, please?

Senator Doody: The interests of Manitoba have not been ignored by the federal government. The Canadian position on the proposed Canada-United States Agreement has been

established by the federal government and the provinces of Saskatchewan and Manitoba. Negotiations on the agreement have been under way since November 27, 1987. One of the objectives has been to ensure that the obligations of North Dakota to Manitoba for water quality and quantity are well defined.

The honourable senator should also be aware that the same article in the *Winnipeg Free Press*, which he quoted from, refers to the Manitoba environment minister's support for the dam. Mr. E. Connery's statement contradicts the honourable senator's allegation that Manitoba's interest has been ignored by the federal government.

AGRICULTURE

WESTERN GRAIN STABILIZATION PROGRAM—FINAL PAYMENT

Hon. C. William Doody (Deputy Leader of the Government): Senator Argue's question, on the other hand, is rather lengthy, including numbers and dates.

Hon. Hazen Argue: Could you give me the conclusion?

Senator Doody: I will read the whole answer.

The government will indicate the amount of the final Western Grain Stabilization Administration (WGSA) payment at the earliest possible opportunity.

The announcement of the payment and the mailing date of the cheques for the past three years were as follows:

	Announcement	Mailing
84-85	November 15	November 20
85-86	November 27	December 5
86-87	November 20	December 1

This year producers have a number of choices to make as a result of recent changes to the act implemented by Bill C-132 (i.e. whether to join, addition of special crops, et cetera).

Producers are presently dealing with Agriculture Canada, and because of the amount of work that has to be done new telephone lines have been installed at WGSA in order to deal with the producers' inquiries.

Please be assured that all efforts are being made to announce the payment at the earliest opportunity.

Producers should be encouraged to submit their relevant information to the WGSA as soon as possible.

AGRICULTURE

WESTERN CANADA—DROUGHT CONDITIONS—GOVERNMENT ASSISTANCE

Hon. C. William Doody (Deputy Leader of the Government): This is in answer to a second question raised on September 12, 1988, by the Honourable Hazen Argue, regarding Agriculture—Western Canada—Drought Conditions—Government Assistance.

(*The answer follows:*)

Now that the harvest is virtually complete, the Government can begin to assess the damage to the Western economy. The Government is committed to providing a package that is sufficient to compensate those effected by the drought.

AGRICULTURE

ALBERTA—DROUGHT RELIEF PROGRAM—CRITERIA FOR QUALIFICATION

Hon. C. William Doody (Deputy Leader of the Government): This is in answer to a question raised on September 1, 1988, by the Honourable H.A. Olson, regarding Agriculture—Alberta—Drought Relief Program—Criteria for Qualification.

(*The answer follows:*)

Federal and Provincial Agriculture Ministers have agreed on several occasions that the Federal-Provincial Crop Insurance Program is the primary safety net vehicle for protecting producers against the financial risks of crop loss from drought and other causes. Crop insurance offers many benefits to individual producers and helps maintain local economic activity when yields are low.

Although there is always scope for improvement, and a review is being completed, the Alberta Hail and Crop Insurance Corporation presently offers a very good forage insurance program. Producers' premiums are matched by the federal government and the Alberta government pays all administrative costs. The condition regarding enrollment in 1989 is intended to provide an additional opportunity for higher participation in the program thereby reducing the need for future ad hoc assistance programs.

Under the Livestock Assistance Program, producers will receive two-thirds of the payment (i.e. up to $40 per head) with no conditions attached. It is only the final payment (i.e. of up to $20 per head) to be paid after April 1, 1989, which is affected by the condition. The per head payment approach gives producers maximum freedom and flexibility to take actions best suited to their individual situations while helping to defray some of the added costs.

In applying the condition, principles will be developed in relation to existing crop insurance eligibility criteria on the minimum level of participation required in 1989. These principles are available to producers now for the existing program. If the review of the Crop Insurance Program indicates that modifications are required, announcements will be made in early 1989.

• (1440)

ROYAL ASSENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator

Phillips, for the second reading of the Bill S-19, An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(*Honourable Senator MacEachen, P.C.*).

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I understand that Senator Kelly wishes to address this motion. I certainly yield to him, but I should like to continue the adjournment in my name after his address.

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

Hon. Senators: Agreed.

Hon. William M. Kelly: Honourable senators, I wish to speak briefly in support of the position taken by Senator MacEachen on the subject of Bill S-19.

This may surprise some of you, coming as it does from someone who has been trained as an engineer. We engineers are supposed to reject ceremony and formality; we are supposed to cut aside all the frills and nonsense and keep only to that which is necessary, efficient and effective to the purpose at hand. Then why do I, as an engineer, support the retention of the Royal Assent ceremony?

Honourable senators, let me say at the outset that I completely understand that Bill S-19 would not dispose of the current method of Royal Assent in favour of the proposed "declaration". I understand full well that the current mode would continue to be available for use when required or desired, and would have to be used for at least the first ordinary bill and the first supply bill approved by both houses. I am also aware that Bill S-19 reflects the practice at the Commonwealth level in Australia since Union and is in line with the U.K. Royal Assent Act of 1967 and with the practices now followed in most other Westminster systems.

Having said that, my concern is simply this: You know and I know—and the drafters of this bill certainly know—that the current mode of Royal Assent will soon come to be used very infrequently, and only when absolutely necessary. For all practical purposes, it will be replaced by the written declaration read in both houses.

Honourable senators, I think that would be a shame. The current mode of Royal Assent may be cumbersome and serve no practical purpose, but to me, and I am sure to others in this chamber, it is a clear illustration or manifestation of two things that are central and vital to our Constitution and to our system of government, and here I echo Senator MacEachen. First, we are a constitutional monarchy and we bear allegiance to Her Majesty the Queen; second, our Parliament consists of three elements—the House of Commons, the Senate and the Crown. Only the current mode of Royal Assent manifests these things so clearly and so often.

Further, I understand that the history of the ceremony of Royal Assent reaches far back into British constitutional history. The first year, I believe, in which Royal Assent was given by Commission was apparently 1541, and the occasion related to Henry VIII and the Bill of Attainder against Katherine Howard.

It seems to me a shame to throw away all that history and tradition simply for the sake of an increase in convenience and administrative efficiency.

It brings to mind two quotations. The first is from T.S. Eliot:

> Tradition cannot be manufactured. If you want it, you must obtain it by great labour.

The second is from Winston Churchill:

> History with its flickering lamp stumbles along the trail of the past, trying to revive its echoes and kindle with pale gleam the passion of former days.

It is history, ceremonies such as this that provide us with a tangible link to our past, that link us to our historical and constitutional roots. I contend that we should think twice, therefore, before we cast them aside in the cause of increased efficiency and bureaucratic convenience.

Finally, honourable colleagues, I spoke to an acquaintance of mine recently who used to be a public servant in the federal government but has since taken his career elsewhere. During his time in government he was directly involved with a number of bills that were considered by Parliament. He said that he personally found the Royal Assent ceremony rewarding and fulfilling; it was a clear ceremonial recognition that the goal had been achieved, rather than an administrative process that amounts to "going out with a wimper". I believe we should bear these points in mind in our consideration of Bill S-19.

Honourable colleagues, I do not have the parliamentary experience and tradition of the Leader of the Opposition, but I found myself in agreement with much of what he said the other day on this bill. I only wanted to add my small voice in support of his.

Hon. C. William Doody (Deputy Leader of the Government): Will Senator Kelly permit a question?

Senator Kelly: Yes.

Senator Doody: Would Senator Kelly not agree that it should be incumbent on all those people who feel so strongly about the retention of the present system of Royal Assent to be present at all Royal Assent ceremonies that take place at 5.30 p.m. or 6 p.m. on Thursdays?

Senator Kelly: Honourable senators, I will respond this way: I believe very strongly in traditions. Speaking personally, I would find it difficult, if not indeed impossible, to attend all of the ceremonies that have a traditional base that occur in this country. My non-attendance would not be because I do not agree with or do not have great affection for tradition. It would be only a question of practicalities. The direct answer to the deputy leader's question is, of course, yes.

Hon. Jack Marshall: Honourable senators, I adjourn the debate.

Senator MacEachen: Honourable senators, I had requested that the motion continue to be adjourned in my name. However, if Senator Marshall wishes to make a statement at any appropriate time, I will not stand in his way.

On motion of Senator MacEachen, debate adjourned.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

CONSIDERATION OF SIXTY-FOURTH REPORT OF COMMITTEE—ORDER STANDS

On the Order:

Resuming the debate on the motion of the Honourable Senator LeBlanc, P.C. (*Beauséjour*), seconded by the Honourable Senator Haidasz, P.C., for the adoption of the Sixty-Fourth Report of the Standing Committee on Internal Economy, Budgets and Administration (allegations against Senator Argue, P.C.), presented in the Senate on 14th September, 1988.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I yield to anyone who wishes to address this question, but, in the meantime, I stand the debate in my name.

Order stands.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixty-fifth report of the Standing Committee on Internal Economy, Budgets and Administration (implementation phase of the office automation system) presented on September 15, 1988.

Hon. Roméo LeBlanc: Honourable senators, I move the adoption of this report.

Motion agreed to and report adopted.

"WE GAVE TOO MUCH AND WERE NOT GIVEN ENOUGH"

ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Gigantès calling the attention of the Senate to the subject "we gave too much and were not given enough".—(*Honourable Senator Gigantès*).

Hon. Philippe Deane Gigantès: Honourable senators, I plan to speak on this at a later date, but, in the meantime, if anyone wishes to speak on this subject, I shall be glad to give him the opportunity.

Order stands.

CHILD CARE

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ON FINAL REPORT OF SPECIAL HOUSE OF COMMONS COMMITTEE ON CHILD CARE ENTITLED "SHARING THE RESPONSIBILITY" ADOPTED

On the Order:

Resuming the debate on the consideration of the Eighteenth Report of the Standing Senate Committee on Social Affairs, Science and Technology (Sub-Committee on Child Care), tabled in the Senate on 12th July, 1988.—(*Honourable Senator Bonnell*).

Hon. M. Lorne Bonnell: Honourable senators, I support this report. The committee did a great amount of work, and I do not see any reason to hold it up. Therefore, I move the adoption of the report.

Motion agreed to and report adopted.

• (1450)

THE SENATE

OTTAWA CITIZEN ARTICLE OF NOVEMBER 18, 1986—INQUIRY STANDS

On Inquiry No. 1:

By the Honourable Senator Marshall:

That he will call the attention of the Senate to an article dated November 18, 1986, in the *Ottawa Citizen*, which in its imputations holds in contempt not only an institution of Parliament, but by extension all of its Members, and goes beyond the guarantees of freedom of expression under the *Canadian Charter of Rights and Freedoms*.

Hon. Eymard G. Corbin: Honourable senators, on a point of order, I wonder if I may be permitted to ask Senator Marshall if and when he intends to deal with his inquiry concerning the imputations of the *Ottawa Citizen* respecting the Senate. It has been on the order paper now for 21 months.

Hon. Jack Marshall: Honourable senators, it takes me a long time to make up my mind!

I am leaving it there for a purpose. Hopefully, I will be able to look after it before the writ is dropped!

Some Hon. Senators: Hear, hear!

Inquiry stands.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, September 21, 1988

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

Prayers.

SOURIS RIVER, SASKATCHEWAN

NOTICE OF MOTION TO AUTHORIZE AGRICULTURE AND FORESTRY COMMITTEE TO STUDY GRANTING OF FEDERAL LICENCE

Hon. Gildas L. Molgat: Honourable senators, I give notice that tomorrow, Thursday, September 22, I will move:

> That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report upon the granting of a water licence by the Federal Government to the Saskatchewan Government for works on the Souris River.

Some Hon. Senators: Hear, hear!

QUESTION PERIOD

AGRICULTURE

EASTERN POTATO FARMERS—COMMITMENT BY FORMER MINISTER

Hon. M. Lorne Bonnell: Honourable senators, according to an article in the *Summerside Journal*, people in Prince Edward Island are saddened to know that the government has lost the services of the Honourable John Wise as Minister of Agriculture, because he had promised some kind of commitment to potato farmers of that province to subsidize the great loss they had suffered because of the drought in 1987.

The Prince Edward Island Potato Marketing Commission is asking for $9.4 million as a stabilization payment to assist the farmers, having in mind both the low price of potatoes last year and the loss caused by the drought.

Could the minister for intergovernmental affairs advise if the new minister responsible for agriculture, the Honourable Don Mazankowski, realizes that there are serious problems in agriculture in the east as well as in the west? The government was able to give equalization payments and subsidies to the grain farmers, to the wheat farmers and to other farmers in the west. Would he give serious consideration to assisting the potato farmers in the east?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I assure my honourable friend that any commitments Mr. Wise made as Minister of Agriculture will, of course, be carried out by his successor, who is the Deputy Prime Minister as well as Minister of Agriculture, the Honourable Don Mazankowski. I will ask Mr. Mazankowski to examine the question Senator Bonnell has asked and to provide any response he thinks appropriate as soon as possible.

Senator Bonnell: I have a further question, honourable senators. I understand that the commitment by Mr. Wise was verbal rather than written. Will the current Minister of Agriculture respect that verbal commitment to these people?

Senator Frith: It was given by "Senator" Wise—oh, excuse me!

Senator Murray: Honourable senators, this government makes no distinction between verbal and written commitments; they are all commitments and we honour them all.

Some Hon. Senators: Oh, oh!

Senator Frith: There we go. That was a nice shot for the troops, anyway.

Senator Bonnell: Honourable senators, I thank my good friend Senator Murray for that commitment and I hope it will be honoured.

Senator Frith: Give us another fat one that we can hit out of the park.

Senator Bonnell: It is a verbal commitment, and I hope Mr. Wise's verbal commitment will now be honoured by Mr. Mazankowski. Apparently, all these commitments are the same with this government. So, if we find they are not committed, then we will know we cannot trust them with anything.

AGRICULTURE

DISPERSAL OF BREEDING HERDS IN DROUGHT-STRICKEN AREAS—TAX DEFERRAL ON LIVESTOCK SALES—EXCLUSION OF BRITISH COLUMBIA CATTLEMEN FROM PROVISION

Hon. Len Marchand: Honourable senators, the drought in western Canada continues to be a serious problem. I was happy with some of the measures announced by the Minister of Agriculture, especially the tax deferral commitment he made in the event that cattlemen had to take the worst possible solution for them, to sell out their herds. But as I understand it, the tax deferral system for those ranchers who sell out their herds in response to the drought does not apply to ranchers in British Columbia. I was rather surprised and rather annoyed to hear that.

Could the minister explain that to the Senate? Why are the cattle ranchers of British Columbia being treated differently?

They have had to face the same drought situation as the those cattlemen in other provinces of Canada, especially cattlemen in the prairie provinces.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall ask my colleague, the Minister of Agriculture, for a statement on that matter.

Senator Marchand: Thank you for that commitment.

In his discussions with the Minister of Agriculture and the Minister of Finance, could the leader make sure that the British Columbian ranchers are not left out again in any consideration of further assistance for drought relief?

Senator Murray: Honourable senators, I shall convey those representations to my colleague and ask him to comment on the crop conditions and production in British Columbia. I think it will be important for the Senate to have a statement from the minister on the situation in British Columbia as well as on the situation in the prairie provinces.

THE ENVIRONMENT

LOCATION OF TRANSPORTABLE PCB INCINERATORS

Hon. Colin Kenny: Honourable senators, I have a question for the Leader of the Government in the Senate. Earlier today the Minister of the Environment made the welcome announcement that the government will be leasing one transportable incinerator to destroy PCB waste and that a second is being considered. Could the leader enlighten us as to why Goose Bay was selected as the first site? And what will the criteria be for the selection of future sites for portable PCB incinerators?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall ask Mr. McMillan to furnish a statement on that matter.

REGULATIONS FOR TRANSPORTATION OF PCBs

Hon. Colin Kenny: Further to that, while the government, earlier this week, brought in regulations for the destruction of PCBs, it does not appear that the government brought in any regulations for the transportation of PCBs. Inherent in the use of mobile incinerators, particularly if we are only talking about two of them, is the fact that the PCBs will have to be transferred from the 2,000-odd sites that exist in Canada to these portable incinerators. When does the government plan to bring in regulations to govern the transportation of PCBs?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The same answer, honourable senators.

TOXIC WASTE RESEARCH—EFFICACY OF REDUCTION IN NATIONAL RESEARCH COUNCIL BUDGET

Hon. Colin Kenny: A further supplementary. Earlier in its term, precisely in November 1984, the government eliminated a portion of the National Research Council's budget, specifically the secretariat that performed research in the handling of PCBs, toxic chemicals and the recycling of waste chemicals. At that time the government indicated that there was a saving of $1 million to $1.5 million. The government has now committed $21 million to leasing portable incinerators. Could you explain with hindsight why that $1.5 million was a worthwhile cut?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): The same answer, honourable senators.

NATIONAL DEFENCE

PRE-1968 NERVE GAS TESTING AT CFB SUFFIELD, ALBERTA—HEALTH OF INVOLVED PERSONNEL

Hon. Joyce Fairbairn: Honourable senators, again there were disturbing reports overnight about testing of gases at the Canadian Forces Base at Suffield, southern Alberta. There was particular reference to nerve gas testing, which took place prior to 1968, involving human participants at that base. Can the Leader of the Government in the Senate give us any information on those activities, which, even though they took place over 20 years ago, are still of importance? Perhaps he could indicate to us whether or not the government has initiated a search for the persons who were involved to ascertain whether, in fact, they suffered any ill effects.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I regret that I have nothing to add to the statement made yesterday by my colleague, the Minister of National Defence. However, I shall bring Senator Fairbairn's question to his attention to see if he has any further statement to make in response to the specific concerns she has expressed.

POST-SECONDARY EDUCATION

GOVERNMENT ACTION OR POLICY—REQUEST FOR ANSWER

Hon. John B. Stewart: Honourable senators, on September 1 I asked the Leader of the Government in the Senate a question concerning post-secondary education. I recalled that in the Speech from the Throne at the beginning of the session the government had forecast an initiative for a national forum. The national forum took place almost a year ago. I asked if the Leader of the Government in the Senate would have any report to make regarding initiatives flowing from that national forum.

The Leader of the Government in the Senate was kind enough to give a verbal commitment that he would be "delighted" to do so. Would he be delighted to provide an answer later today or tomorrow, or is that asking too much?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I thank my honourable friend for bringing this

matter to my attention. Again, I have asked for that report from my colleague, and I shall do what I can immediately to expedite it.

NATIONAL DEFENCE

PRE-1968 NERVE GAS TESTING AT CFB SUFFIELD, ALBERTA—HEALTH OF INVOLVED PERSONNEL—MINISTER'S STATEMENT

Hon. Joyce Fairbairn: Honourable senators, Senator Stewart was so fast on his feet that I did not get a chance to slide in a further question. "Flash" Stewart is what we call him!

Some Hon. Senators: Oh, oh!

Senator Frith: Let us say "Speedy", shall we?

Senator Fairbairn: I should like to ask a supplementary question. I am aware of comments that were made overnight by the Associate Minister of National Defence to the effect that it was speculation to make assumptions about any effects that these pre-1968 tests might have had on individual Canadians. He referred to the idea of a follow-up as "a bit of a wild goose chase".

The Leader of the Government in the Senate has told me that the Minister of National Defence made a statement. Could he summarize that statement for me?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): That would be a hazardous thing for me to attempt; however, I shall ask Mr. Beatty to provide me with a copy of his statement—I am quite certain he has made a statement on the matter—to deal with the concerns that Senator Fairbairn has expressed today.

• (1410)

OFFICIAL LANGUAGES ACT

STATUS OF REGULATIONS

Hon. Dalia Wood: Honourable senators, on September 15 an act respecting the status and use of the official languages of Canada was proclaimed. Does the Leader of the Government in the Senate have any idea when the regulations having to do with the Official Languages Act will be forthcoming?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I shall inquire of my colleague, the Minister of Justice. Subject to correction, however, the proclamation of those regulations is imminent.

THE ENVIRONMENT

ISSUANCE OF LICENCE FOR RAFFERTY-ALAMEDA DAMS PROJECT—PROTECTION OF MANITOBA'S INTERESTS

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, while I am on my feet, perhaps I could provide a reply to questions asked yesterday by our colleague Senator Molgat concerning the Rafferty-Alameda Dams project. The information I have been given on this matter is as follows.

Further to a request from the Government of Saskatchewan, the federal government has undertaken negotiations with the United States on the Rafferty-Alameda Dams project. Our goal is an agreement covering construction, operation and maintenance of the dams for water management and flood control in Canada and for flood control in the United States. The Canadian negotiating team includes representatives from Saskatchewan and Manitoba. The Secretary of State for External Affairs has made it clear to both provinces that any agreement with the U.S.A. will have to deal satisfactorily with all major Canadian concerns, which include environmental impacts respecting the project.

Mr. Clark is aware of the U.S. Environmental Protection Agency's comments, released yesterday, on the environmental impact of the project upon the U.S.A. The Government of Canada has made clear to the U.S. government our concern that any agreement on the Rafferty-Alameda Dams must deal with the environmental effects of the project on all affected jurisdictions. In any future discussions with the U.S.A. we will maintain this position.

Honourable senators, not to anticipate the debate that I understand my friend is to launch tomorrow, let me state that my colleague Mr. Clark is aware of the recent public speculation that some form of the Garrison Diversion may be used to meet future shortages of water in the Souris River resulting from the Rafferty-Alameda Dams project. It is not clear how seriously this idea is being taken in the United States, but, if any proposal to this effect is made, the Government of Canada will maintain its long-standing opposition to the transfer of foreign biota into Canadian waters, which the Garrison Diversion could cause.

TRANS-CANADA HIGHWAY

RECONSTRUCTION—ALLOCATION OF FEDERAL FUNDS TO NEW BRUNSWICK

Hon. L. Norbert Thériault: Honourable senators, I have a question for the Leader of the Government in the Senate that arises from an agreement between either the Province of Nova Scotia or the City of Halifax and the Atlantic Canada Opportunities Agency with respect to cleaning up Halifax Harbour. Could the government leader first tell me how the program was arrived at? Is this an agreement between the province and ACOA or between the City of Halifax and ACOA? Are there possibilities for similar agreements with the other Atlantic provinces?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, this is a subagreement with Nova Scotia under the ERDA umbrella. It is an agreement between the federal government, as represented by the minister of ACOA, and the Province of Nova Scotia. This project, which is extremely important for Nova Scotia for environmental as well as for economic development reasons, was identified by the Govern-

ment of Nova Scotia as its highest priority in the discussions that were held with the Government of Canada concerning possible new initiatives under the ERDA. That, I think, provides the answer to the second part of my honourable friend's question.

Naturally, the Government of Canada will consider seriously and negotiate seriously on the basis of priorities that are put forward by any provincial government and on which we can reach agreement.

Senator Thériault: Honourable senators, is the federal part of the funding taken from the funds allocated to ACOA?

Senator Murray: Honourable senators, a distinction must be made between the funds—the $1 billion of new money—allocated to ACOA for new programs in the area of small business and so forth and the ERDA moneys. The moneys for the various ERDA subagreements, including this one, would come from what I might call the ACOA cooperation fund—the ERDA pot, in other words—and not from the ACOA Direct Action Program.

Senator Thériault: I take it that it would not affect the so-called $1 billion you have been talking about.

Senator Murray: No, honourable senators.

Senator Thériault: Then my following question is this: From the answer given by the minister I take it that this project was identified by Nova Scotia as its priority, and it came about under an agreement that existed between Nova Scotia and the federal government or ERDA; is that correct?

Senator Murray: My honourable friend will recall from his days in the provincial government that there is what is called the GDA, the General Development Agreement, and a series of subagreements.

Senator Thériault: Yes, I know that.

Senator Murray: We now have an umbrella called ERDA. This is one of the subagreements under the ERDA umbrella. It is a new subagreement relating to Metropolitan Halifax-Dartmouth. One of the components of that subagreement is the Halifax Harbour project.

Senator Thériault: I thank the minister for that answer. That is what I believed when I asked the question, but I wanted to make sure I understood.

Now for my real question!

Senator Murray: Oh, the real question!

Senator Frith: When's the election?

Senator Thériault: The Government of New Brunswick has identified, according to my understanding, that its main priority is rebuilding the Trans-Canada Highway. Is it possible that an agreement could be reached similar to the one reached with Halifax, under the same conditions and under the same agreements and subagreements in cooperation with ACOA and the Leader of the Government in the Senate?

Senator Murray: My honourable friend cannot be more wrong. The Premier of New Brunswick has taken some pains

[Senator Murray.]

to state that the proposed reconstruction of the Trans-Canada Highway must not, on any account, come from the economic development moneys allocated under ERDA.

Senator Thériault: Honourable senator, are you quoting the Premier of New Brunswick?

Senator Murray: I am quoting him as directly as I can from our various discussions on this subject. I assure my honourable colleague, with considerable certainty, that the position of the Premier and of the Government of New Brunswick, understandably enough, is that the very considerable commitment that would be involved in the reconstruction of the Trans-Canada Highway must, on no account, come out of regional development, ACOA, or ERDA moneys.

I agree with him that the Trans-Canada Highway is not a regional development project; it is a national project.

THE ENVIRONMENT

ISSUANCE OF LICENCE FOR RAFFERTY-ALAMEDA DAMS PROJECT—PROTECTION OF MANITOBA'S INTERESTS—RESPONSIBILITY OF GOVERNMENT TO CONDUCT STUDY

Hon. Gildas L. Molgat: Honourable senators, I should like to thank the Leader of the Government in the Senate for the additional information he gave this afternoon on the Rafferty-Alameda Dams project. I wonder if he has obtained an answer to my question of yesterday, which was this: When the federal government is granting a licence for a water project on a river that flows across provincial boundaries, is the federal government obliged, either legally or morally, to conduct environmental studies on the province downstream, which may be affected?

● (1420)

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I need a little more time to look into the implications of that question, especially as to our legal and moral commitments. As I indicated yesterday, I have asked the appropriate minister to let me know what the provisions of the statutes are and what the policy is on that matter.

HERITAGE RAILWAY STATION PROTECTION BILL

THIRD READING—DEBATE ADJOURNED

Hon. Charles Turner moved the third reading of Bill C-205, to protect heritage railway stations.

He said: Honourable senators, at the committee meetings on this bill, various ideas, suggested amendments and concerns were raised. I sincerely hope that these concerns will be looked at when the regulations are being prepared by the officials of the government.

Senator Sinclair: Hear, hear!

Senator Doody: Hear, hear!

[*Translation*]

Hon. Eymard G. Corbin: Honourable senators, on September 9, I had to rise after the report of the committee on Bill C-123 was presented because the French version of this bill contained errors. I then said that the next time such a thing happened, I would move that the bill be returned to the committee for the corrections to be made in the prescribed form.

As Senator Turner has just pointed out, the French version of Bill C-205 also contains errors. The Law Clerk and Parliamentary Counsel, Mr. du Plessis, brought two of these differences between the French and English versions to the committee's attention yesterday.

Section 4 of the French version reads:

> sur recommandation du gouverneur en conseil . . .

The English version reads:

> On the recommendation of the Board.

So on one hand, we have the "Board", which is the correct version, I am told, in the English text, and on the other, "le gouverneur en conseil", which means "Governor in Council" in English. This is a quite different body. He pointed out this fundamental difference in the two versions. He also told us that the French version of subsection 7(6) reads:

> la Commission doit soumettre au ministre et au ministre des Transports.

The English version reads:

> the Board shall submit to the Minister.

It is clear that the words "et au ministre des Transports" in French are redundant.

I continue to quote the letter from the Law Clerk and Parliamentary Counsel:

> I am informed that in both cases, the English version reflects the intention of the House of Commons and the French version must be amended.

It would perhaps have been more accurate to say that the English version reflects the intention of the English-language Members of the House of Commons even though the French version must be amended. He continues:

> In my opinion, such changes cannot be made by mere stylistic corrections.

In other words, it is not just a matter of a letter missing from a word, an accent or a semicolon. It is something more fundamental. Mr. du Plessis said:

> If the Committee sees fit, the Bill must in each case be amended accordingly.

The committee having been informed of these two errors in the bill—and I was a member in good standing of the committee, it decided not to amend the bill, but agreed to have the chairman report it to the Senate with these errors. The effect of all this, obviously, is that if we pass the bill on third reading as Senator Turner has moved, we will have a defective bill on the books. I understand that such things bother some people.

This bill is entitled "An Act to protect heritage railway stations". I am absolutely not against that. I am for preserving our heritage. I consider my most precious heritage to be the French language. I think that it is often misused in badly drafted legislation. It is the third time in this session—and God knows how many other bills containing such errors were passed without my knowledge. I cannot read everything and look after everything. The same goes for many of my colleagues. But at least when such an error is pointed out to us, it seems to me that we must—and I must—make sure that the bill is corrected and not allowed to stand with those errors. We must have some self-respect, after all. So I did not make a motion to correct the French text.

We are dealing with a bill that I would call a "sacred cow", to put it in a nutshell. One cannot be against our heritage. One cannot oppose our physical heritage like old buildings or our natural heritage. One must not only preserve our national parks and wildlife, but create other protected areas. I am all for that. But I would really like it if in the future more attention were paid to the way legislation is written.

These errors passed the House of Commons completely unnoticed. I do not know if any French-speaking members were on the committee that dealt with this bill. Maybe there were; I could not check on that. Anyway, these errors were not found there, but they were found in the Senate. I found some others; at least, I found things that seem quite doubtful to me. This morning, I got in touch with the Law Clerk and Parliamentary Counsel and his assistant. I was given answers to some objections that I raised with them.

It seems I was right in certain respects. I did not get an answer on other points which I feel are also important and may cause our legislation to be interpreted to say one thing in French and something else again in English.

I do not intend to obstruct the passage of this bill, but I felt I had to point out again to honourable senators that there are deficiencies in the way legal texts are drafted in French.

I imagine the usual procedure is that the people who draft the bills are asked to draft them in English and the texts are subsequently translated into French. I think special care should be taken to ensure that the meaning of the text is the same in both French and English.

That is what I wanted to say. However, I have a few more comments. I think the bill's approach is weak. I am not convinced that the bill will accomplish what it sets out to do, but time will tell.

I also want to say that now we are approaching the end of a session the pressure is on again. We are being pressured to adopt a number of bills at top speed. Quite frankly, adopting bills at top speed goes against the grain. The results are predictable. The bills that are drafted and adopted turn out to be deficient, and then a subsequent government has to introduce amendments to correct the deficient texts.

I do not think this is to the credit of the Parliament of this country. Thank you.

Hon. Joseph-Philippe Guay: Honourable senators, Senator Corbin said that he thought the bill might have to be referred back to committee.

I would like to ask him whether that is what he intends to suggest, in addition to what he told us.

Senator Corbin: Unfortunately, Senator Guay, I feel obliged to swallow what I said on September 9—that it was the last time I would let a deficient bill go through. However, if challenged, I am prepared to move a motion to refer the bill back to committee. I feel very uncomfortable with a bill that is deficient in its French version, while the English version is correct—

Senator Thériault: Go ahead, move the motion.

Senator Corbin: You want me to? In that case, honourable senators, I move, seconded by Senator Thériault, that the bill be referred again to the Standing Committee on Transport and Communications for correction of the errors in the French text.

● (1430)

[*English*]

Hon. Brenda M. Robertson: Honourable senators, I understand Senator Corbin's position, and I sympathize with him and share his concerns. These errors happen too often. If it is of any value to Senator Corbin, I should indicate that, when these errors were pointed out to us at the conclusion of the committee meeting yesterday, the Law Clerk and Parliamentary Counsel of the Senate, Mr. Raymond du Plessis, assured us that the bill would not be proclaimed until the errors had been corrected. I believe he also indicated that it would cause some delay in the proclamation of the bill. As I recall—and I am only going by memory—the bill is to go to the Standing Joint Committee on the Scrutiny of Regulations, before proclamation, to make certain that the errors have been corrected in both languages.

I suggest that we communicate with the drafters of legislation, indicating our strong objection to its coming here in a faulty condition. Perhaps such a communiqué would prevent that sort of thing from happening again. It is very frustrating. I do not blame the honourable senator at all for being angered by these errors. Obviously, the system is at fault, and we, as senators, should make strong representations to those responsible in order to prevent the recurrence of such unfortunate incidents.

In any event, honourable senators, I do know that the corrections to this particular bill will be made before proclamation, although I cannot give you an exact reference because I do not have with me the notes I made during the committee meetings.

[*Translation*]

Senator Flynn: Honourable senators—

Senator Corbin: If I may, Senator Flynn, I should like to respond to the comments of Senator Robertson.

I think we have a different interpretation of what Mr. du Plessis said. I may be mistaken and I give you the benefit of the doubt. My understanding is altogether different.

I spoke to him before entering the Senate this afternoon and he told me unequivocally that if the bill were to be given third reading in its present form it would become law on the day of its official proclamation. There is no way it can be corrected before official proclamation. Only the legislators—the House of Commons and the Senate—can correct a defective bill.

So I do not see how anyone could correct the bill should we decide to adopt it this afternoon. That is the opinion I was given and that is my understanding.

[*English*]

Senator Robertson: It is obvious, honourable senators, that I may have misunderstood Mr. du Plessis yesterday. I should like to talk with him again. Perhaps we could adjourn the debate for half an hour to allow me to get another interpretation.

[*Translation*]

Senator Corbin: I quite agree, honourable senators.

[*English*]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, just before we adjourn the debate, is the motion that the amendments be made here or that the bill be sent back to committee?

Senator Flynn: That they be made here.

[*Translation*]

Senator Corbin: Honourable senators, I want to answer the question of Senator Frith since he is the one who asked whether my motion would refer the bill to committee or whether the amendments are to be made here.

As far as I am concerned, I am quite prepared to agree that the amendments be made here in the Senate, if only to save time.

My intention is not to delay the adoption of the bill. I just want to make sure that the bill is properly drafted.

Senator Frith: So, if I understand correctly, the motion now before us would have the effect of amending this bill here in the Senate on third reading?

Senator Flynn: No, no, that is not possible.

[*English*]

Senator Frith: I am asking the senator what his motion is. He should know what his motion is. What does Senator Flynn mean by, "No, no"?

Senator Flynn: The motion is to move it back to committee.

[*Translation*]

Senator Frith: If I understand correctly now, Senator Corbin's intention is to propose that the amendments be made here in the Senate during third reading.

Do I also understand correctly—at least, I hope so—that there is unanimous consent to change the motion to that effect?

[*English*]

Senator Robertson: Honourable senators, I asked to have half an hour or so to clear up with Mr. du Plessis an ambiguity

in the interpretation. In order to be absolutely certain of the situation, I should like that time.

Senator Frith: Of course. But I wanted to know what the motion was upon which we were adjourning the debate for 15 minutes, half an hour, or however long. I understand now that we agree that the motion is to make any necessary amendments here at third reading.

Senator Flynn: That is too vague.

Hon. Ian Sinclair: Honourable senators, my understanding is that other amendments were proposed and were looked upon with some favour by members of the committee, but they were not proceeded with—on the basis that, if they were made and the bill were sent back, it might not be able to be dealt with. However if amendments are going to be made now, and quite properly, so that people cannot argue that there is a differentiation between the French and English texts that would enable people to escape the application of the law, then certainly those other amendments, which would have been made had it just been a question of their merit, but which were not made because of the fact that the bill had to go forthwith, certainly those amendments should be tied in with the ones being made to the language, I suggest.

• (1440)

Senator Frith: You really can smell blood, can't you?

[*Translation*]

The Hon. the Speaker *pro tempore:* Honourable senators, I think we should clarify the situation.

We had a motion by Senator Corbin to send the bill back to committee—

[*English*]

Hon. C. William Doody (Deputy Leader of the Government): I should like to say one word before you dispose of this, and that is to add some emphasis to the urgency of the treatment of the bill. We have had occasion to refer it back to committee once. We have aroused the ire of some heritage people, who are quite upset about the possibility of losing this great opportunity, which Senator Sinclair and others so favour, of having these railway stations declared as heritage sites. It is only a matter of Senator Sinclair and Senator Turner getting together on the wording of the plaques that will be placed in each of these stations to commemorate their joint effort on this bill. Nevertheless, I think it would be unfortunate if we did delay this bill any further than this day, because we are planning a Royal Assent tomorrow, partly because of the opportunity to get this bill finished finally and partly because of one other bill that we have.

An election is imminent. I cannot tell you exactly when, but I am consulting on a daily basis with Senator MacEachen, and as soon as we get definite word you will be among the first to know. In the meantime, I should like to get that bill through. I urge honourable senators to give it their best attention. I know exactly what Senator Corbin is saying and I appreciate his frustration. I completely agree with him, but we do not want to lose this particular bill if we can avoid it.

The Hon. the Speaker *pro tempore:* Do I understand that the motion to refer the bill to the committee is withdrawn by Senator Corbin and replaced by another motion?

Some Hon. Senators: No.

Senator Flynn: Yes. There was a motion to adjourn the debate for half an hour.

Senator Robertson: Honourable senators, when speaking to Senator Corbin's motion, I asked for a half-hour adjournment of the debate.

The Hon. the Speaker *pro tempore:* Honourable senators, is it agreed that the debate on the motion be adjourned for half an hour?

Hon. Senators: Agreed.

On motion of Senator Robertson, debate adjourned until later this day.

[*Translation*]

Hon. Jean Bazin: Honourable senators, my only reason for intervening in this debate is to consider a number of remarks by Senator Corbin with respect to legislation in French and the legislation section at the Department of Justice.

[*English*]

The Hon. the Speaker *pro tempore:* The debate has been adjourned.

[*Translation*]

Senator Bazin: I have a question for Senator Corbin—

Senator Flynn: The debate has been adjourned.

Senator Bazin: In that case I'll get back to it.

[*English*]

CONSTITUTION ACT, 1867

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Molgat, seconded by the Honourable Senator Corbin, for the second reading of the Bill S-20, An Act to amend the Constitution Act, 1867 (Speaker of the Senate).—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, while the linguists and legalists are scrambling to straighten out the wording of the Heritage Railway Station Protection Bill—

Senator Doody: They are looking for their notes.

Senator Frith: —I shall make an intervention on this item. Because I do not want to hold on to it unduly, I shall not make a detailed intervention, but I want to make a few comments.

First, the proposition of electing our Speaker is attractive, and I support it. I support both the principle and the proposition.

Senator Doody: However, . . . !

Senator Frith: However, we remember from geometry that we start out with a proposition and then we deal with the corollaries. There are some corollaries that flow from this proposition of electing the Speaker about which I am concerned. Perhaps that is not a good metaphor, because I suppose a corollary is something that inevitably follows from a proposition, while it may be that these are simply dangers rather than inevitable consequences.

To put it simply and not to refer unduly to black letter law, the present system is that the Prime Minister, presumably in consultation with the Governor in Council, selects a senator to act as Speaker. We presume that there is some conference, some discussion, between the nominee and the Prime Minister and others. That having been settled, the necessary paper work is done and the Speaker is nominated. The senator nominated then appears before us and simply says, "I have the honour to inform you that I am your Speaker."

Previously, in the House of Commons essentially the same run-up procedure was in place, but there was consultation among the opposition leaders and caucuses, as I understand it, and there was a pro forma election. Of course, the election in the House of Commons is not pro forma now. I understand that Senator Molgat's proposition is certainly not for a pro forma election here but for an actual election.

Turning to the implications, let us say, rather than corollaries that would flow from this proposal, we have, of course, a very persuasive example close at hand—just down the corridor, in fact. What are some of the actions of an elected Speaker, if we look at the House of Commons? First, on the question of order, the Speaker of the House of Commons plays a dominant role. The Speaker makes rulings, intervenes in debates to call order on his or her own initiative, and, of course, makes rulings which are final and binding.

In the Senate the Speaker does not play a dominant role in matters of order. The senators are expected to maintain order themselves. One may say that they do not always succeed in doing so, but can one say that they always succeed in doing so in the House of Commons under the aegis of the Speaker? Would it be fair to say, on the basis of the senators themselves controlling their order, that proceedings in the Senate are more disorderly than they are in the House of Commons where there is an elected Speaker who controls the order in the house? I think not.

The House of Commons has a much more complicated rule book than we have. The Senate rule book—this light, lithesome, red book, contains 114 rules and takes 45 pages to express those rules. The House of Commons has 159 rules and it takes 124 pages to express theirs. So they have 45 more rules than we have and approximately 80 more pages to express those rules. I am speaking just of the rules. There are appendices and indexes and additional documentation that is also more fulsome than in the Senate rule book. On a pound-for-pound basis, I should say that the House of Commons rule book is about three times as heavy as the Senate rule book, if not more so. There is a reason for that; the reason is that we are masters of our own order and, being required to establish

[Senator Doody.]

and maintain order ourselves, we only call on the Speaker when we are unable to do so. We have a much more flexible and informal set of guidelines for our procedure and order—

● (1450)

Senator Roblin: And better!

Senator Frith: In fact, I think better. Senator Roblin and I have expressed that view on previous occasions. So his intervention is not a new one. We know where he stands on that issue.

That flexibility, in my experience here, has usually resulted in our being able to do anything for which we believe there is a consensus or strong feeling for doing. We can always grant leave; we can give unanimous consent; we can usually find a way for the Senate to express its will. Remember, the whole purpose of order in any body—in fact, the reason for any assembly's meeting—is to find ways of expressing what, as a group, it wants to say, either as a consensus, as a unanimous decision or as a majority decision. If simple rules, shorter rules and self-discipline succeed in doing that, then I think we should be careful about changing any traditions that might change that salutary tradition and salutary history.

Another implication in following the model of the House of Commons would be that the Speaker would be the head of the administration. Again, we must remember that here the Speaker is not the head of the administration. It happens at the present time that the Speaker is the chairman of the Internal Economy Committee, but the administrative decision-making organism in the Senate is the senators themselves, represented by the Internal Economy Committee, of which the present Speaker happens to be chairman.

Senator MacDonald: But not necessarily.

Senator Frith: But not necessarily, and whatever position he has as chairman of that committee—which is only as chairman—he has as a result of the members of the committee electing him; it is not because he is the Speaker of the Senate.

Senator Roblin: It is an unusual situation.

Senator Frith: Yes, an unusual situation. As a matter of fact, in the time that Senator Roblin and I have been here, and I came here only a short time before him—

Senator Roblin: Too long for both of us!

Senator Frith: Let's chat about that. I am not prepared to say that yet.

Senator Flynn: I have been here for 26 years.

Senator Frith: Senator Flynn, you have been here for 26 years. Has the Speaker and the chairman of the Internal Economy Committee ever been one and the same in your time?

Senator Flynn: No.

Senator Frith: That is another salutary aspect of the Senate. It is an institution that runs itself, and runs itself by committee. Again, that is not always successful, but, again, let us

make the comparison: Is the House of Commons a more successfully administered body than the Senate? I do not believe so. So I am worried about that implication.

I say to honourable senators, without digging any deeper, that I feel that some principles and traditions that are extremely important to us may be threatened by the establishment of an elected Speaker—not necessarily, but they may be. I should certainly want assurances that they would not be. I would rather continue with our present system of appointing the Speaker, even though I would love to have an elected Speaker. I would prefer to continue with that rather than see these principles changed and the Senate transformed into a body similar to the House of Commons. It seems to me that it would be difficult for an elected Speaker not to feel justified in modelling his or her behaviour on the Speaker's behaviour and powers in the other place.

However, if the majority of honourable senators want to have an elected Speaker and run the risk of having these principles changed, then, of course, I should support them, because that would be consonant with the very traditions I have supported in this intervention.

Subject to those concerns, I support the concept; but I should want reassurances that the results would not be as far-reaching and as dangerous as I think they might be.

Hon. Finlay MacDonald: Honourable senators, after Senator Molgat presented this motion I asked him a number of questions. I referred, of course, to the 1982 report of the joint committee in which the recommendation was made that the Speaker of the Senate should not only be elected by the Senate but should have authority and powers analogous to those of the Speaker of the House of Commons. What else would one expect? What type of guarantee would one want with that clear recommendation of that joint committee?

This place is leaderless. It is a pure coincidence that the Speaker is the chairman of the Internal Economy Committee. As a matter of fact, it is confusing that the Speaker is the chairman of the Internal Economy Committee. It would save a tremendous amount of confusion if the chairman of the Internal Economy Committee were an ordinary senator—and please excuse the expression—rather than the Speaker of the Senate, because people think the Speaker has authority; but he has no authority whatsoever.

It is entirely possible that some time in the distant future honourable senators opposite will be on the government side. I do not know what pain they experienced when the only recourse was to go to the Speaker for a ruling, which was immediately appealed. It is to laugh, if this place is to be run by the Internal Economy Committee. The Internal Economy Committee has a lot to answer for, a great deal to answer for.

Senator Frith: What about the Speaker in the other place? Does he have anything to answer for?

Senator MacDonald: It is a pity that the traditions you hold so dear and are worried about breaking, and that have apparently worked over a long period of time, are going to be replaced by, let us say, a more rigid structure, but, honourable senators, I tell you that that is inevitable.

While I suggested to Senator Molgat that his motion was somewhat premature, considering what is going to be on our plate over the next few years, I cannot see any honourable senator, in all reasonableness, not supporting it.

Senator Frith: We will mark you down as being undecided!

On motion of Senator Kelly, debate adjourned.

• (1500)

SOVIET UNION

MOTION ON RELIGIOUS FREEDOM ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Haidasz, P.C., seconded by the Honourable Senator Anderson:

That,

Whereas 1988 marks the Millennium of Christianity in Kievan Rus, providing an occasion for all men and women of goodwill to celebrate the great spiritual heritage carried by the peoples of the Soviet Union—Catholic, Orthodox, Protestant, Jewish, Muslim, Buddhist;

And Whereas religious freedom has been acknowledged as a fundamental human right in such landmark international conventions as the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights, the Convention against discrimination in Education, the Helsinki Final Act, the United Nations Declaration Against All Forms of Religious Intolerance—agreements to which the U.S.S.R. Government has solemnly pledged its adherence;

The Senate of Canada appeal to General Secretary Mikhail Sergeyevich Gorbachev to honour the U.S.S.R. Government's commitments to these aforesaid international agreements, to declare a general amnesty for all religious prisoners of conscience, and to legalize the Ukrainian Catholic Church, the Ukrainian Autocephalous Orthodox Church, the Ukrainian Orthodox Church, and all other religious groups, assuring thereby all the peoples of the U.S.S.R. the right of religious freedom and practice.—(*Honourable Senator Molgat*).

Hon. Gildas L. Molgat: Honourable senators, I simply want to associate myself with the comments made by the honourable Senator Haidasz and to compliment him for having brought this matter to the attention of the Senate.

Western Canadian development and the whole immigration movement in that region was tremendously helped by the people from the Slavic countries of Europe. They have continued to be excellent citizens of Canada and yet, at the same time, have maintained a great deal of their own culture. We are fortunate in my own province of Manitoba, for example, to have an annual festival of Ukrainian Canadians in Dauphin,

which is recognized as an international event. Dauphin has become the cultural centre of Ukrainian life in Canada.

That diversity is a very good thing for our country, and behind much of that has been the strong religious attachment of the Ukrainian people to the Christian tradition—not only Catholic but in many cases Orthodox as well.

In recognizing the Millennium, Senator Haidasz has pointed out an important element in the life of a great number of Canadians, and I want to be associated with his motion and with the comments he made.

Some Hon. Senators: Hear, hear!

Motion agreed to.

HERITAGE RAILWAY STATION PROTECTION BILL

THIRD READING

On the Order:

Resuming the debate on the motion of the Honourable Senator Turner, seconded by the Honourable Senator Guay, P.C., for the third reading of the Bill C-205, An Act to protect heritage railway stations.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I understand that Senator Robertson, who asked for a brief adjournment on Bill C-205, is now prepared to give us the benefit of information she garnered when she went her way.

Hon. Brenda M. Robertson: Thank you very much, senators. When I said I was speaking out without my notes, I truly was. It was not the Committee on the Scrutiny of Regulations. I should have referred to the Miscellaneous Statute Law Amendment Bill. We are advised that these corrections will be made at the First Session of the next Parliament.

I believe both Senator Corbin and I agree that they are of a non-controversial nature and have nothing to do with the policy of the bill; but we are still concerned about the carelessness in translation and would do everything possible to urge this house to make strong representations for correct translations in the future.

I am sure that Senator Corbin wishes to speak to this, because he is certainly not happy. I suppose none of us is happy with these errors, but we believe that, because they do not impact on the policy of the bill, we should go ahead and give the bill third reading.

Hon. Gildas L. Molgat: I should like to ask Senator Robertson a question regarding the comments she made when she first spoke to this motion.

If I understood you correctly at that time, you were suggesting that corrections would be made after the bill had left this place, but before proclamation. I want to be absolutely certain that that is not what we are talking about, because I think it is inconceivable that any laws that we pass, that are agreed to by the House of Commons, would subsequently be changed by anyone without reference to us. I think that is simply an impossible situation, although there is no problem in bringing them back to this place after proclamation.

Senator Robertson: As I understand it, and Senator Corbin can correct me if I have the wrong interpretation, apparently these things are done in one of two ways: The bill can be proclaimed and then, when the Miscellaneous Statute Law Amendment Bill, which is a clean-up bill, comes in, the corrections can be made. Honourable senators who have been here for some time are familiar with that process. That may be done after proclamation; or, as occasionally happens, with the consent of the minister the bill may be held for proclamation until the corrections have been made.

Senator Corbin, is that not how you understand it? Or will it be proclaimed, Senator Corbin, and then corrected?

Senator Doody: It will be corrected in the Miscellaneous Statute Bill.

Hon. Eymard G. Corbin: Honourable senators, as I said earlier, only the legislators can modify the texts of law. Let me propose this routine: If we agree to pass this bill on third reading today, a message will be sent to the House of Commons informing them that Their Honours have adopted this bill, and arrangements will be made for Royal Assent. Royal Assent will be given to the bill tomorrow, and it will go on the law books with the defects in the French text.

In the coming Parliament, or perhaps in this session if it continues forever, the government will propose an omnibus type of bill. Senator Robertson has correctly identified that as the Miscellaneous Statute Law Amendment Bill, which deals with matters of the sort I have been talking about today and which does not affect fundamental policy positions. Parties in Parliament generally agree to adopt such a bill. Indeed, even before it is presented there are consultations in the House. So that is how these matters are dealt with. I know of no other way.

I understand that we have assurances from the director of the Historic Sites and Monuments Board that the flaws in the text, which have been brought to their attention, will be contained in that Miscellaneous Statute Law Amendment Bill—eventually, when it is presented to the House—and that the whole matter will be cleaned up there and then. I know of no other way to deal with it, except for us now, at third reading stage, to proceed either to send the bill back to committee and make amendments there or to agree unanimously, because Mr. Beauchesne does not allow that kind of procedure at third reading—but by unanimous agreement I suppose we can do anything. Then, if we did amend the bill as received from the committee, it would have to go back to the House of Commons and they would have to deal with it in the usual way. That would take time. How much time, I do not know. However, I have been a reasonable man all my life.

Some Hon. Senators: Hear, hear!

Senator Corbin: I have never, without just cause, deliberately delayed the work of Parliament in any way and I do not intend to do so today. As I stated earlier, I can agree with the object of this bill. I have no birds to kill, and I have no

vengeance to display whatsoever. I do not want to be branded as the senator who blocked passage of this legislation and then be submerged with I don't know how many calls and letters and be dumped on by everyone who belongs to that network of Heritage Canada. I just do not want to go through that mess! So I am saying, let us approve the bill. All I have told you earlier is that the bill is defective.

[*Translation*]

Honourable senators, there are mistakes in the French text. This is not the first time we have received a bill from the House of Commons containing mistakes. Sometimes the mistakes are corrected in the House of Commons, but sometimes the House doesn't correct the text at all. In that case, it is up to the Upper House of the Parliament of Canada to make those corrections.

That being said, I think this proves the need for a second chamber in the Parliament of Canada. We correct errors of this kind, and we sometimes correct errors that are far more serious and more fundamental. As far as I am concerned, honourable senators, I did my duty today. I pointed out the deficiencies in the text of this bill. You can do as you like, but I don't feel very comfortable with a deficient legislative text. You can approve it if you want to. I will let it go through, but very reluctantly.

Hon. L. Norbert Thériault: Honourable senators, as you know, I am not a linguist. However, I am also very attached to my heritage, that of a French-speaking Acadian.

On many occasions, Senator Corbin has raised the point that legislation is often deficient in the French version. If that were also and as often the fact in the English version, I would say that mistakes are made in both languages. However, it seems to me the mistakes are found mostly in the French versions of our legal texts.

During the last four or five years, I have had the honour and the privilege of sitting near Senator Corbin and Senator Le Moyne in this chamber. I finally realized how ill-served the Francophone is in this chamber and often in the other chamber as well. I wonder why? I think Senator Corbin has made a very important point today.

● (1510)

[*English*]

Why is it so bad to amend a bill as it should be amended and send it back to the other place? If the government and other members of the House of Commons really want to have it passed, they can do so. I understand that they are going to sit tomorrow. Unless an election is called, the bill will be given Royal Assent in due course. Why do we hesitate? I think this point is well taken—it is serious, it affects many people and it affects me, personally, as a senator. I really think that the Senate should consider making the point once and for all by amending this bill and sending it back to the House of Commons. That is my feeling.

[*Translation*]

Hon. Jacques Flynn: Honourable senators, allow me to differ with Senator Corbin and Senator Thériault regarding the treatment given the French version of the bill.

First of all, I can inform Senator Corbin it is not true that a French translation is made of the English text. Today the approach is different. The text may be drafted first in French by one person and subsequently in English by someone else. The problem is reconciling both texts. In this case, it is not a matter of how the French version was mangled. There is no reason to get upset and to see this as an attack on French culture; not at all. The French text is all right, but it differs from the English text. Which version is the right one? Which one expresses the intent of the legislator? I think we can find the answer without complaining about how one version or the other was treated.

I also want to say to Senator Thériault that I entirely agree with him about the changes and amendments, and especially amendments that are not controversial. When it is necessary to improve the text of a bill, we should not hesitate to do so. I don't think we should.

Today, it seems that a decision to dissolve Parliament is imminent. The solution proposed by Senator Robertson may be a very good one, namely that the discrepancies in both texts will be corrected when the next bill to deal with all kinds of non-controversial legislative amendments is tabled. This annual bill dealing with discrepancies found in our legislation should have no trouble being adopted by both chambers.

I was not on the committee and I am not in a position to do anything about it today, but if specific amendments had been proposed I wouldn't see any problem there. The House of Commons, upon receiving our message with amendments that are obviously necessary, would just have to say, without further delay: Yes, we agree. The bill would come back to us in a matter of minutes. In any event, it isn't my problem. Senator Robertson and Senator Corbin have agreed to say they would be in favour of having these amendments made part of the next bill dealing with these kinds of discrepancies. That is one solution.

One last point, for the sake of clarification: We talked about the coming into force of this bill. After Royal Assent, the bill does not automatically come into force, because Clause 10 clearly says:

> This Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council.

So the Governor in Council may very well delay the coming into force of the legislation until such time as the proposed amendments have been legally adopted and are the subject of a decision of Parliament, or the bill may be enacted with the proviso that the problems are to be addressed later.

Be that as it may, whatever procedure is selected, I wanted to emphasize in particular that we should not see in this problem a policy or a process whose effect is to attack the French language or the French culture. It is not that at all. It is a strictly technical problem.

[*English*]

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I think the solution suggested by Senator

Robertson, which was the result of consultations with Senator Corbin, is acceptable. I also think that it is worthwhile, before the bill is given third reading, to note that this bill has almost been bedevilled by its accidental attraction of two problems that transcend the principle or even the text of the bill itself.

The first of those problems is the fact that the committee first reported the bill without amendment without having heard representations of those opposed to it. The Senate was confronted with two important principles; first, that we do not like to pass bills without referring them to committee, and, second, that we do not like to pass bills without hearing in committee everyone both for and against the bills.

Then we went along and raised this additional principle, which is not unique, that the texts do not coincide in the two official languages. The response always given to this problem is, "Don't worry, it will all be caught up under the Miscellaneous Statute Law Amendment Act." On the face of it that is an answer. However, I think it is worthwhile to have made a fuss on this point, especially because we do not want to encourage draftsmen to think they can always solve their problems in this way. I congratulate Senator Corbin for raising this matter and giving us a chance to make that fuss about it. I think we have made it clear that we will not always accept that answer.

On the other point, I think we have made it clear that we do not like to subvert the principle that we prefer to hear all sides of every question: we like to hear both those in favour of and those against a bill.

[*Translation*]

Hon. Jean Bazin: Honourable senators, I only want to repeat the point raised by Senator Flynn and that is the question I wanted to ask Senator Corbin.

I think that it is essential to note that bills are no longer automatically translated from English to French or from French to English; the two versions are conceived and drafted together. I think it is important to point that out. I wanted to comment on that and Senator Flynn spoke on it very well.

Senator Corbin: Honourable senators, if that comment was meant to enlighten me, I must tell Senator Flynn and Senator Bazin that I was already aware of this situation.

Besides, Senator David, who always listens to me very kindly and attentively, can confirm that is exactly what I said yesterday in committee. I had occasion to say it also a while ago right here in the Senate.

Perhaps I did not express myself clearly enough. One sometimes has the feeling that things are done in one language because of time constraints, and, later, a translation is simply made from one language to the other. I have the feeling that most often the work is done in English and is then translated into French.

Anyway, I do not know what happened in this particular case. The fact is that despite all the good will of all concerned, a defective bill has reached the Senate. We are trying to correct it and this causes problems and inconvenience.

As Senator Frith said, I feel that we have made enough noise for today. The next time—I do not want to make any threats—we might do more than make noise! Thank you.

• (1530)

[*Translation*]

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator Turner, seconded by the Honourable Senator Guay, P.C., that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Ian Sinclair: On division!

Motion agreed to and bill read third time and passed, on division.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Subject to correction, I suggest that all other orders stand.

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Thursday, September 22, 1988

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:

RIDEAU HALL

22 September 1988

Sir,

I have the honour to inform you that the Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 22nd day of September, 1988, at 3.30 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

BUSINESS OF THE SENATE

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I should like to propose the following motion dealing with the adjournment, and, if I may, I shall make a comment afterwards.

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, 27th September, 1988, at two o'clock in the afternoon.

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

Hon. Senators: Agreed.

Senator Doody: Honourable senators, as you have just heard, the adjournment motion is for next Tuesday at 2 o'clock. Senators are all aware of the fact that the child care legislation is now before the other place. I understand that it will be voted on at 6 o'clock on Monday evening. That being the case, we thought it might be wise to adjourn until 8 o'clock on Monday evening and then give notice for second reading. However, honourable senators opposite—and I thank them for their consideration in this regard—have agreed to give us leave to proceed with second reading on Tuesday. It is for that reason that we have been able to adjourn until Tuesday.

Motion agreed to.

QUESTION PERIOD

DELAYED ANSWERS TO ORAL QUESTIONS

NATIONAL DEFENCE

NUCLEAR-POWERED SUBMARINES—STATUS OF PROGRAM—TRANSFER OF TECHNOLOGY

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have several delayed answers.

A question was asked on September 15 by our colleague Senator Molgat concerning nuclear-powered submarines, the transfer of the Trafalgar class submarine technology and whether the Government of the United States had agreed to this transfer. My answer, subject to correction, was "yes". Upon investigation, I have learned that my answer was correct so far as the Reagan administration is concerned. Nevertheless, I am now informed that this transfer would also require congressional approval.

Hon. Royce Frith (Deputy Leader of the Opposition): Their Congress is much more independent of the administration.

Senator Murray: As Senator Frith points out, their Congress is much more independent of the administration. It is true that they do not have a system of responsible government in that country, as we have.

Senator Frith: Steady! Settle down!

Senator Murray: In the constitutional sense.

Senator Frith: It depends on what you mean. In our sense of the word, that is true.

Senator Murray: Their administration is not responsible to their parliament. In any case, President Reagan did advise the Prime Minister some time ago that the administration would support Canada's acquisition of Trafalgar class submarine

technology, but, as I indicated, the support of Congress would be needed for that as well.

Hon. Gildas L. Molgat: Honourable senators, I should like to thank the minister for his prompt reply to my question regarding the approval of the United States authorities for the transfer of nuclear information. Can he advise me whether the request has been launched through Congress or through whatever procedure they have to use to get authority from Congress? Has that begun? Has he any idea how long that process might take?

Senator Murray: Not as far as I am aware, honourable senators; nor could I say with any confidence how long the process would take. I shall inquire of the appropriate minister to see what light can be shed on those matters.

AGRICULTURE

DISPERSAL OF BREEDING HERDS IN DROUGHT-STRICKEN AREAS—TAX DEFERRAL ON LIVESTOCK SALES—EXCLUSION OF BRITISH COLUMBIA CATTLEMEN FROM PROVISION

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, two other matters were raised yesterday. One was a question by our colleague Senator Marchand of Kamloops concerning the drought assistance program as it might apply to the province of British Columbia.

I am informed that at the time of the announcement the Government of Canada indicated that it would continue to monitor the situation in British Columbia. Since the announcement the government has been actively working with producer groups in British Columbia to ensure that the problems created by the drought will be adequately addressed in that province. Senators can rest assured that aid for British Columbia farmers will be included in any federal announcement of drought relief.

Hon. Len Marchand: Honourable senators, I want to thank the Leader of the Government for his prompt reply to my question of yesterday. The reply, however, is too general. My question was more specific regarding the tax deferral program. Both the press release of June 1, 1988, from the Minister of State for Agriculture and Mr. Mayer referred to the tax deferral scheme in this way: The tax deferral for cattle producers for 1988 on income derived from weather-related distress sales of breeding livestock may be extended if conditions warrant.

I say to the minister that some cattle herds have already been sold off in British Columbia and there will probably be more herds sold off. This was a significant part of the program. I was talking to the cattle producers in British Columbia yesterday and they were rather upset that they had been left out. When this press release came out, I must admit that I did not read all the fine print and I did not realize that it indicated that British Columbia was not included in that scheme. I recognize that there must be some differences in the way the program is applied, depending upon the kind of distress in certain areas. I understand that and I recognize it. However, this particular part of it is a significant and important undertaking. We want it to apply to ranchers in British Columbia as well as to those in other areas that are suffering from drought.

[Senator Murray.]

Senator Murray: Honourable senators, Mr. Mayer and I had a word about this matter this morning and he has undertaken to provide me with information additional to that which I have just given to the Senate. I hope to have that early next week.

THE ENVIRONMENT

LOCATION OF TRANSPORTABLE PCB INCINERATORS

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there were also some questions concerning PCBs. I do not know if I have the answers to all of them, but one had to do with why Goose Bay had been chosen as the first site for the location of a transportable PCB destruction unit and how we were going to go about choosing other sites.

The information that has been given to me is that Goose Bay is the largest federal repository of PCB wastes—3,000 tonnes. Further, the Department of National Defence is already well advanced with respect to environmental evaluations and community consultations at Goose Bay.

Environment Canada will be seeking the advice of the Canadian Environmental Advisory Council to select the best location or locations for the second transportable PCB destruction unit. Federal environmental assessment procedures will be followed throughout this initiative, including extensive community consultation.

Hon. John B. Stewart: Honourable senators, does the Leader of the Government in the Senate have an explanation of why there was this concentration of PCBs at Goose Bay and, if the PCBs were not there because they were being used there, how they ended up at Goose Bay? For example, were they flown in?

Senator Murray: What was the latter part of the question?

Senator Stewart: Were they carried in by aircraft?

Senator Frith: How did they get there?

Senator Murray: I think not, honourable senators. There is a Canadian Forces base there, as my honourable friend knows, but I would have to ask the Department of the Environment or the Department of National Defence to furnish a reply on that matter.

Senator Stewart: We look forward to the fulfilment of that verbal commitment!

REGULATIONS FOR TRANSPORTATION OF PCBS

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, there was also a question regarding which regulations under the Transportation of Dangerous Goods Act govern the transportation of PCBs and PCB wastes. I have a lengthy

reply to that, which I will leave for my friend, the Deputy Leader of the Government, to table next week.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

CONSIDERATION OF SIXTY-FOURTH REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator LeBlanc, P.C., (*Beauséjour*), seconded by the Honourable Senator Haidasz, P.C., for the adoption of the Sixty-Fourth Report of the Standing Committee on Internal Economy, Budgets and Administration (allegations against Senator Argue, P.C.), presented in the Senate on 14th September, 1988.—(*Honourable Senator Doody*).

Hon. C. William Doody (Deputy Leader of the Government): I yield to Senator Murray.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, this report was presented by Senator LeBlanc on September 14. It has to do with certain allegations made against Senator Argue, allegations which have been documented and, by my reading of the report, proven. It includes the committee's conclusion that Senator Argue's course of behaviour is not justifiable and cannot be condoned.

If his actions cannot be condoned, that is, forgiven or overlooked, then what is the Senate to do or say in response? And what is Senator Argue to do or say in response to the stern judgment of his colleagues?

All of us here have had enough time to think about our responsibilities to ourselves, to the Senate, and, of course, to Senator Argue himself. It would be normal to ventilate the matter without delay, particularly at this late date in the life of this Parliament. However, as honourable senators are aware, this business is unfinished. It is noted in the report that various questions relating to Senator Argue's travel expenses are being investigated by the subcommittee of the standing committee and that its findings will be the subject of a separate report to the Senate in due course.

• (1410)

These questions are numerous and serious. The subcommittee, I may say, is well aware of the urgency we all attach to early completion of its examination. Senator Argue himself has given permission to various carriers to release the records of his travel to the committee, and the process of obtaining these records is now under way.

We have also been advised that the Royal Canadian Mounted Police have begun an inquiry into Senator Argue's use of Senate resources on Mrs. Argue's political nomination campaign. I am sure all senators agree that the police must be given full cooperation by the Senate.

It would seem to me that it would be difficult, and perhaps premature, for this chamber to weigh the burden of the sixty-fourth report until the subcommittee has completed its examination into the matter of Senator Argue's travel expenses and reported to us, and until the police authorities have completed their work.

Honourable senators know that these unfinished examinations by the subcommittee and by the RCMP may well be overtaken by dissolution of this Parliament. Any police inquiry would, of course, go forward, but, constitutionally, the committee's mandate and activities are terminated with dissolution. In that case, I can say on behalf of my colleagues in the government caucus that this important matter would be the first order of business upon our return. I trust that that determination would be generally shared in the Senate.

The committee's recommendations would be on the table at the beginning of a new Parliament, as well as the finding that Senator Argue abused his senatorial privileges.

This is a matter of grave importance to all of us. It must and will be dealt with by the Senate as a whole when the unfinished examinations have been completed. Those who would believe that we harbour any intention to sweep the matter under the rug do not understand the resolve which I believe exists among members of the Senate.

On motion of Senator Argue, debate adjourned.

"WE GAVE TOO MUCH AND WERE NOT GIVEN ENOUGH"

ORDER STANDS

On the Order:

Resuming the debate on the inquiry of the Honourable Senator Gigantès calling the attention of the Senate to the subject "we gave too much and were not given enough".—(*Honourable Senator Gigantès*).

Hon. Philippe Deane Gigantès: Honourable senators, I intend to speak on this later, but should any honourable senator wish to speak on this inquiry now, I have no objection.

Order stands.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Subject to correction by any senator who wishes to speak, I move that all remaining orders stand.

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

Hon. Senators: Agreed.

THE SENATE

OTTAWA CITIZEN ARTICLE OF NOVEMBER 18, 1986—INQUIRY STANDS

On Inquiry No. 1:

By the Honourable Senator Marshall:

That he will call the attention of the Senate to an article dated November 18, 1986, in the *Ottawa Citizen*, which in its imputations holds in contempt not only an institution of Parliament, but by extension all of its Members, and goes beyond the guarantees of freedom of expression under the *Canadian Charter of Rights and Freedoms*.

Hon. Jack Marshall: Stand!

Hon. Eymard G. Corbin: Honourable senators, on a point of order, on Tuesday, September 20, I asked Senator Marshall if he intended to speak soon on this inquiry, which has been standing in his name on the order paper for 21 months.

I believe I interpret him correctly when I say that he answered that he hoped to be in a position to speak before the writ was dropped, or something to that effect. I sensed some urgency in the house today. We have just heard a statement by the Leader of the Government, Senator Murray, that gives me the impression that, for reasons pending known perhaps to him alone, to put on the record what he had to say he had to do it today. I sensed some urgency in his decision to make that statement today.

Senator Murray: Aren't you glad you are in the Senate, and not the other place?

Senator Corbin: Otherwise, if we were to be sitting next week, he could have made his statement next week, in plenty of time before the writ is dropped.

I must ask Senator Marshall if he is any nearer dealing with his inquiry today than he was earlier this week.

Senator Marshall: Honourable senators, there is no one I respect more than Senator Corbin for the interest he takes in what I do in the Senate.

Since he reminded me on Tuesday that the inquiry had been on the order paper for quite a length of time, I have had a chance to reflect. However, I still have not made up my mind.

With regard to what the Leader of the Government in the Senate indicated today when he spoke, I may know a lot more than Senator Murray as to when the writ will be dropped!

Hon. Azellus Denis: Honourable senators, Senator Marshall is certainly improving. I remember some years ago when he had written questions by the hundreds. So I must congratulate him for having so few requests.

SOURIS RIVER, SASKATCHEWAN

AGRICULTURE AND FORESTRY COMMITTEE AUTHORIZED TO STUDY GRANTING OF FEDERAL LICENCE

Hon. Gildas L. Molgat, pursuant to notice of Wednesday, September 21, 1988, moved:

That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report upon the granting of a water licence by the Federal Government to the Saskatchewan Government for works on the Souris River.

[The Hon. the Speaker.]

He said: Honourable senators, considering this matter to be urgent and believing that action should be taken quickly before construction proceeds, my first intention was to raise this as a matter of urgent public importance in order to bring it to the attention of the Senate. However, as honourable senators know, that procedure does not provide for any remedy. At the end of debate the Senate is aware of the problem, but no action is taken, because the practice is that the mover of the motion asks for it to be withdrawn.

Therefore, in order to get some action on this matter and find out the facts, which is really what concerns me, I decided that we should refer it to a committee. I realize that environmental matters are directly the concern of the Standing Senate Commitee on Energy and Natural Resources.

Senator Barootes: What about the Fisheries Committee?

• (1420)

Senator Molgat: However, in this case we do not have an energy problem but, rather, an agricultural problem: Will this project have a bad effect upon the agricultural situation in Manitoba, in particular, which is a downstream province? In addition, are there other considerations, such as the effects on wildlife or on water supply to towns and to farmers along the course of the river?

There is a great deal of controversy at the moment on the granting of this licence. We have heard many different points of view with respect to it. We have heard that Saskatchewan did undertake some studies, but we know that no studies were conducted in Manitoba, which is the downstream province in this regard.

For those who are not familiar with this situation, the Souris River has its source in Saskatchewan, flows into the United States, comes back into Canada in Manitoba and empties into the Assiniboine River. From there the water flows into the Red River and, eventually, into Lake Winnipeg. The river, typical of prairie rivers, is subject to great changes in stream flow. It undergoes heavy flows in the spring runoff period, and yet, in a year like this, it has virtually no flow. But it is an important river, nonetheless, to those who live alongside it.

In my own province of Manitoba some towns, notably the town of Souris, depend on this river for their water supply. Many farmers in Manitoba also depend on it for irrigation projects they have put in place. They have made investments based on the water from that river. Over the years water has been guaranteed by a series of dams along the river system, notably one in the United States, so that there is sufficient annual flow to supply water to those people who presently depend on it.

The concern now is that, with the two dams proposed in Saskatchewan, there is no guarantee as to the quantity and, even more important, the quality of the water. Will those dams and the procedures that Saskatchewan has in mind have an effect upon the downstream water? It seems to me, therefore, that the logical thing to do before proceeding to grant this licence is to undertake a clear analysis of the effects of those dams on all downstream users. That has not been done thus

far. One of the engineers of the federal government has been quoted as saying that no federal studies have been done because the project neither affects federal land nor involves federal spending. That may be, honourable senators, but it certainly could affect the downstream users. I am told by people in Manitoba that no study has been done to that effect.

My concern, then, is that we should not proceed with this project. It may turn out to be a very good one. I am not saying that it will not be. Nevertheless, we should not proceed with it until we are sure of the effects upon the neighbouring provinces—in this case, my province. I think it is important, therefore, that we refer this matter quickly to the Standing Senate Committee on Agriculture and Forestry to find out exactly where we stand.

I might say that we in the province of Manitoba have another concern in this regard. We have been told that, in order to make these two projects viable over the long term, it will probably mean the transfer of water from the Qu'Appelle River system into the Souris River. This would involve waters coming from an entirely different water system. It would involve the South Saskatchewan system, which is now connected by the Diefenbaker Lake with the Qu'Appelle. This entirely different water system brings water into the Souris River and eventually the Assiniboine and the Red.

Canadians have been going through a long-standing fight against the transfer of water by the Americans at the Garrison Dam system. We have effectively fought and won that fight. The Americans proceeded with the Garrison Dam system only insofar as it meant keeping water in the United States. Originally, it was their intention to transfer water from the Missouri system into the Red River system, but the International Joint Commission—and eventually the United States government—agreed that that should not be done; that there should not be transfers of water from one totally distinct river system into another because of the consequent transfer of all sorts of fish and organisms that do not belong in the second system.

So, honourable senators, we fought that fight not to have water from the Missouri system transferred into the Red River system, thus affecting Canada. But here we are today possibly doing the same thing in Canada, because it is proposed to transfer water from the Saskatchewan system into the Red River system eventually. There is concern about what effect that would have. But what is of more concern is that, if we agree to do that within Canada, how can we then say to the Americans: "You cannot do it." Therefore, if that is part of the long-term program, we should know about it right now and, in my opinion, we should oppose it, if it is part and parcel of the whole system.

Therefore, honourable senators, I think it is urgent that this matter be referred to the Standing Senate Committee on Agriculture and Forestry. Let us find out what the facts are in this regard and then delay the project, if need be, until we are sure that we are not doing something we will regret at a later date.

I urge honourable senators to agree to this motion now so that the committee can start work on this matter next week. If we delay discussion of this matter, the risk is that the program will proceed in Saskatchewan. They will proceed with the dams, and we will then be faced with a fait accompli and it will be too late to do anything about it.

I urge honourable senators to pass the motion now and have the committee meet next week.

Some Hon. Senators: Hear, hear!

Hon. Efstathios William Barootes: I will adjourn the debate, honourable senators.

The Hon. the Speaker: Senator Barootes, I think the motion must first be put to the chamber, and then you can move the adjournment.

Honourable senators, it is moved by the Honourable Senator Molgat, seconded by the Honourable Senator Corbin:

> That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report upon the granting of a water licence by the Federal Government to the Saskatchewan Government for works on the Souris River.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Barootes: On division!

The Hon. the Speaker: Senator Barootes, you do not wish an adjournment?

Senator Barootes: Honourable senators, I should like to take the adjournment on this question.

The Hon. the Speaker: It is moved by the Honourable Senator Barootes, seconded by the Honourable Senator Doyle, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, on a point of order, before the motion was put, Senator Barootes asked to have the debate on the motion adjourned. However, the motion had not been put at that time. Then, when the motion was put, we said "Agreed", but he said, "On division." So the motion has carried, on division. Consequently, there is no motion on which debate can be adjourned.

The Hon. the Speaker: Senator Barootes, do you have any comment?

Senator Barootes: I ask the Chair to make a judgment.

The Hon. the Speaker: If we wish to stick to the rules, I do not think that Senator Molgat had put the motion first but, rather, made a speech on the motion before it was put to the chamber.

Senator Frith: But then Your Honour put the motion.

The Hon. the Speaker: However, if we go by the rules, then before I put the motion Senator Barootes wanted to adjourn the debate. Therefore, on a question of courtesy, I think that perhaps we should adjourn the debate.

Senator Frith: Your Honour, I do not think that is what took place. It may be that Senator Molgat spoke to the motion before Your Honour had put it to the chamber. That is what Your Honour has just said, and I think that is probably correct. However, no objection was taken and no point of order was raised. Then, after there was a suggestion of an adjournment of the debate, Your Honour said: "I have to put the motion." You then put the motion and some senators said "Agreed", and then Senator Barootes said, "On division."

• (1430)

So the motion is carried, on division, no matter what took place before that. There is no motion on which debate can be adjourned. I do not think there is any question of balance at all, Your Honour. It is quite clear that Your Honour did put the motion, and it was carried, on division. So it is over and we go on to the next order of business.

Senator Barootes: The misunderstanding on my part was that when Senator Molgat spoke he did not ask that the motion be put. My understanding was that he urged that we give attention to this expeditiously—and I may be paraphrasing. On that basis I felt that I wanted to have the opportunity to discuss the pros and cons of his motion. That is when I asked if I could adjourn the debate. There might have been a misunderstanding on my part, or a misinterpretation, but that is where that difficulty arose.

I am not in great discomfort with having this referred to committee, but I wanted to do some research and make some comments on it before it was referred to the Standing Senate Committee on Agriculture and Forestry—although, as I jokingly said, perhaps it should go to the Fisheries Committee, because you are really fishing, Senator Molgat.

Aside from that, I am not discomfited by the decision that has been reached, which our "William Pitt the Younger" over here has corrected us on.

The Hon. the Speaker: So, Senator Barootes, you agree that the motion be carried, on division.

Senator Barootes: On division!

Motion agreed to, on division.

The Senate adjourned during pleasure.

At 4 p.m. the sitting of the Senate was resumed.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Gérard V.J. La Forest, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy 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 Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Tax Court of Canada Act and other Acts in consequence thereof (*Bill C-146, Chapter 61, 1988*)

An Act to protect heritage railway stations (*Bill C-205, Chapter 62, 1988*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, September 27, 1988, at 2 p.m.

THE SENATE

Tuesday, September 27, ,1988

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

Prayers.

CANADA CHILD CARE BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-144, to authorize payments by Canada toward the provision of child care services, and to amend the Canada Assistance Plan in consequence thereof.

Bill read first time.

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

Hon. Brenda M. Robertson: With leave, later this day.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as Senator Doody pointed out last Thursday, we were aware last week that the House of Commons put in place a house order requiring that all questions on this bill be put in the other place last night. Second reading debate on the bill here would normally require two days' notice, which would mean that we would have to wait until Thursday to begin. In effect, however, we received notice that the bill would arrive here today. Senator Doody and I agreed, therefore, that leave should be granted to commence second reading debate today.

Hon. Allan J. MacEachen (Leader of the Opposition): But we all have to agree, of course.

Senator Frith: That is quite right. I must not let that go by. We must all agree. I simply remind honourable senators that Senator Doody informed the Senate of this agreement on Thursday and we all agreed to it.

On motion of Senator Robertson, with leave of the Senate and notwithstanding rule 44(1)((*f*), bill placed on the Orders of the Day for second reading later this day.

CANADA-UNITED STATES FREE TRADE AGREEMENT

PETITION TABLED

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I have been asked to table as a petition a document, addressed to Senator MacEachen, containing over 500 signatures; of course, I do not intend to read them all. This petition expresses support for the Senate's stand to stall the free trade legislation so that an election will be called and Canadians will have the opportunity to vote on this deal.

It states further:

> We think this is the biggest issue we have faced in the history of our country and that it is about whether or not we want Canada to exist as an independent nation.
>
> It is Prime Minister Brian Mulroney who suspended democracy in Canada when he negotiated this deal without a mandate from the Canadian people. We thank you for restoring democracy in Canada and ask that you not back down until we have the opportunity to vote on free trade in a general election.

Some Hon. Senators: Hear, hear!

Senator Ottenheimer: Author! Author!

Senator Frith: Oh, does the honourable senator want me to read all of these names? Very well; I had not intended to, but I will if that is his wish.

Hon. Jacques Flynn: On a point of order, if that is addressed to Senator MacEachen, why are you reading it? Can he not read it himself?

Senator Frith: It was presented to me for the purpose of presenting it to the Senate as a petition, and I have been authorized to do so.

Senator Flynn: Presented to you by whom?

Senator Frith: I will tell you. There are 500 names here.

Senator Flynn: You said that it was addressed to Senator MacEachen.

Senator Frith: Yes, and I have told you why I am presenting it. What is your next question?

Senator Flynn: Can Senator MacEachen not speak for himself?

Senator Frith: He can speak for himself. I will say it again, after Senator Barootes asks his question.

Hon. Efstathios William Barootes: When did Senator MacEachen write the preamble to that?

Senator Frith: "Never" is the answer to your question. Is there another question, Senator Barootes?

Senator Barootes: No.

Senator Frith: I am sure honourable senators do not want me to read all the names.

Some Hon. Senators: Yes!

Senator Asselin: No.

Senator Frith: Senator Asselin says no.

The Hon. the Speaker: The "nays" have it.

Senator Frith: His Honour says that the "nays" have it.

As I was saying, this is presented as a petition to the Senate.

Senator Doody: On behalf of Senator MacEachen.

Senator Frith: No, on behalf of 500 names, all signed.

Petition tabled.

QUESTION PERIOD

FISHERIES

TRADE—UNITED STATES' CANCELLATION OF PERISHABLE PRODUCT AGREEMENTS

Hon. Raymond J. Perrault: Honourable senators, I have an inquiry to make of the Leader of the Government in the Senate. I do not expect him to have the information at hand.

In recent hours the representatives of the fishing industry of British Columbia have drawn to my attention, and to the attention of certain other members representing British Columbia, that effective September 29 all perishable product agreements between importers and the U.S. Department of Agriculture are cancelled.

The U.S. definition of a "perishable product" has also been clarified and refined. Perishable products are defined as fresh fish and seafood and fresh fruits and vegetables with a storage life of seven days or less, for example, under the conditions described in the U.S.D.A. handbook. Should this regulation be implemented, I am told that the implications of this U.S. action are that Canadian fish will be held at the U.S. border point for more than 24 hours.

Members of the Standing Senate Committee on Fisheries, including the chairman, Senator Marshall, will agree that there are certain types of highly perishable fish. They are the best quality fish that we export, and time to market is of critical importance.

The proposal is that all shipments must be held intact at destination until a signed-off FD-701 is received or the shipment is sampled. May I read from the official U.S. document?

> If a shipment is not held, we will request that U.S. Customs issue a Redelivery Notice. A decision to release or sample an entry will be made as soon as possible but no later than the next working day if all required information is supplied with the FD-701.

There seems to be some confusion and great concern in the fishing industry on the west coast. I suggest that this could equally apply to the maritime fisheries. It could be a form of harassment—although we hope not—by U.S. Fisheries officials to lessen competition from Canada. In the spirit of understanding developing between our two countries, surely it is inappropriate for U.S. officials at this time to present a block to the free flow of trade across the border.

[Senator Frith.]

I ask the Leader of the Government to make an inquiry and bring that information to the Senate at the earliest possible opportunity.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, Senator Perrault is correct in assuming that I would have to ask for a report from my colleague, the Minister of International Trade, on this matter. I shall do so at once.

ENERGY

TAR SANDS PROCESSING PLANT, FORT McMURRAY, ALBERTA—EFFECT OF OSLO AGREEMENT

Hon. H.A. Olson: Honourable senators, I should like to ask a question of the Minister of State for Federal-Provincial Relations. Could he clarify the terms and conditions of the so-called OSLO Agreement, which is an agreement between federal and provincial governments and the private sector to build a tar sands processing plant at Fort McMurray?

I have been asking questions about this for months. Certainly, when the announcement is made that it will go ahead, I shall welcome it, except that the more I read about the agreement and the contingencies, where any of the parties can back out until 1991, the more uncertain I am about whether or not construction will ever go ahead.

Many people in Fort McMurray are now more confused than ever about what their plans should be in order to take advantage of the economic activity that is likely to be generated from building a $4 billion plant in that area.

My concern is that, if contingencies such as the price of oil are not more than $17 a barrel at that time, any of the parties can back out and kill the project, as they can if the cost of the project goes up beyond $4 billion. A whole lot of other contingencies could give reason, within the terms of the agreement, for either side—the government or the private sector and either one of the two levels of government—to withdraw the support that they have given to this agreement.

I ask the minister if the government will clear up some of these questions so that there can be some certainty. Or was the agreeement designed simply to put in a two- or three-year delay? As we understand it, the agreement states clearly that no construction will begin until 1991, and all of these contingencies have to be met or each party signing the agreement may withdraw its endorsement of it. Why throw out this kind of confusion? The people in Fort McMurray, including municipal officials, are wondering if there is any substance to it or if it was just a deliberate attempt to delay for two or three years.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend may have the opportunity, if he wants to seek it, to have the appropriate ministers appear before the Energy Committee of the Senate to discuss these matters. If he wants to make an argument now, I am not sure—and it is certainly not clear—what he is likely to propose as an alternative.

A statement of principles was agreed to among the governments and the members of the consortium. Of course there is an economic viability escape clause there, but the position of the government is that we do not believe that short-term oil prices are necessarily any guide to the future.

The governments and the private sector, as partners, have gone as far as they prudently can in terms of taking fluctuating oil prices into account. It is a complicated agreement; I commend it to the honourable senator. I think he should read it and study it. I do not think it creates confusion at all.

With respect to the economic benefits, which the honourable senator mentioned, they are considerable. We are talking about 17,000 person-years to be created during the construction phase and 800 permanent jobs during the operating phase. So it is an important project, both from the point of view of energy security and as a foundation of energy policy, as well as in terms of regional development and the national interest. But the government and the private sector sponsors could not be expected to commit themselves beyond a point that would be prudent for the taxpayers and the shareholders.

• (1410)

Senator Olson: Honourable senators, I have no disagreement that this is an important project, with all the economic benefits my honourable friend has just outlined—if it goes forward. The problem is that no one has really made a commitment that it will go forward at all unless the contingencies spelled out in the agreement are met by the date when construction is to begin, which is in 1991. That is where the problem comes in; that is why many people, including the municipal officials in Fort McMurray, are wondering what it all means. They agree, and I agree, that we should be building processing plants to make use of the largest reserve of oil known in the world. It is a fact that there is a larger reserve of oil in that deposit than there is even in the Middle East. It is, of course, obviously a great deal more expensive to bring that oil to a usable condition, and part of the expense will be this plant. That is why I am asking the minister whether or not we have the courage in this country to commit ourselves to go ahead and increase Canada's capability by approximately an additional 8 per cent of our yearly requirements. If we do have the courage, why, then, are there all these contingencies?

Honourable senators, no one will attempt to take advantage of any potential economic activity that might be generated in this area knowing that any one of the parties to the agreement can back out and that, therefore, there may be no construction at all. What, then, is the announcement good for, except simply saying: "We are not going to do anything more until 1991. When 1991 comes along, if all of these conditions we have put in the agreement are met, then construction can begin."

Honourable senators, that is the problem with this announcement. I hope the minister can give some reassurance to those Canadians who are interested in the 17,000 jobs that will be created by this project, many in Fort McMurray and in other parts of the country, that this government has more faith and confidence in enhancing Canadian supply of oil than simply postponing everything for three years.

Senator Murray: Honourable senators, with great respect, I think my friend is really straining to try to find something to criticize in this agreement; to try to find some way of casting doubt on the *bona fides* of the commitments that have been made by the federal and provincial governments and by the private-sector partners. I commend to his attention the statement made by the vice president of Esso Resources Canada Ltd., Gordon Wilmon, who said:

> OSLO is commercially viable under any realistic pricing scenario. If it weren't, our company wouldn't be in it. The agreement is fair and beneficial to all parties and underscores their shared abilities to equitably manage the risk associated with starting such a large capital-intensive project.

My colleague Marcel Masse, the Minister of Energy, Mines and Resouces, said:

> All parties are taking their fair share of the risks to bring OSLO to life and all will reap their fair share of the benefits.

His counterpart in Alberta, Dr. P. Neil Webber, said:

> Oil sands development is a major goal of this government. Aside from the economic spinoffs, Albertans and Canadians will enjoy a good return from their investment in OSLO. Furthermore, the development and upgrading of Alberta's rich resources assure Canada of another stable, long-term source of light crude oil.

As the honourable senator knows, because he alluded to this fact earlier, within a few years our supplies of oil from conventional sources will be half of what they were in 1980. Therefore, going ahead with OSLO and a number of other energy projects that have been announced recently—and scorned by the leader of the honourable senator's party, Mr. Turner, and others for political purposes—is very important to Canada's energy security and to both regional and national development in this country. I should hope that my friend, unlike the Right Honourable John Turner, would take a rather more positive approach to these matters.

Senator Olson: Honourable senators, I am asking the government to take a more positive approach to its own actions. If all these things that the senator has just said are true, why is the government putting all these escape hatches in the agreement?

THE ENVIRONMENT

AIR TRANSPORTATION OF PCB WASTES—APPLICATION OF PROHIBITION

Hon. John B. Stewart: Honourable senators, I rise to ask the Leader of the Government a question on a different subject. Last Thursday the Leader of the Government in the Senate told us that the largest federal repository of PCB wastes in Canada is at Goose Bay. He mentioned 3,000 tonnes. I understand that the Minister of the Environment, prompted

by information that one of Canada's airlines was carrying PCB wastes, has asked that Canadian airlines cease transporting PCB wastes. I want to ask, if that is true, what prohibition has been imposed upon the civil airlines. I also want to ask if aircraft operated by Canadian Forces have also been placed under this prohibition, and will the prohibition apply to any other aircraft flying in Canadian air space?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am not aware that my colleague has instructed Canadian Airlines not to carry—

Senator Stewart: I said "Canadian airlines", not the company Canadian Airlines.

Senator Murray: Honourable senators, I must say that I do not have that information. The information I have is dated yesterday.

We are aware that Air Canada sent three shipments of PCB wastes aboard its own aircraft to Heathrow Airport on the way to Wales for destruction. These shipments took place in accordance with Canadian transportation of dangerous goods regulations. The U.K. authorities were notified in advance, but did not object to these shipments. Nor, by the way, have they contacted the Canadian government about denying landing rights to Air Canada at Heathrow.

The position of the Canadian government is that consignments of hazardous wastes, including PCBs, may be transported by air, provided that: first, each shipment is inspected by transportation of dangerous goods inspectors and provincial inspectors to ensure compliance with Canadian regulations and the International Air Code; second, the receiving country does not object to the TDG, transportation of dangerous goods, 60-day notification; third, the disposal facility where the waste is going is licensed under standards equivalent to Canadian standards. I am informed that shipping PCB wastes by air is not a common practice in Canada because of special packaging requirements and high cost of transportation.

I have another statement here under today's date which says that all countries should aim to establish adequate disposal facilities to manage their own hazardous wastes. However, at present Canada does not have the facilities necessary to destroy PCB wastes. Therefore, PCB wastes must be stored in Canada and its safety must be assured. The minister has issued an interim order under the Canadian Environmental Protection Act that prescribes stringent storage requirements; secondly, to ensure the expeditious destruction of PCB wastes in storage, the minister has announced major funding for a transportable incinerator, along with putting in place appropriate regulations.

The minister goes on to say that we must recognize that efficient and environmentally sound management of hazardous wastes may require some trans-frontier movement of such wastes to allow us to use properly licensed disposal facilities in other countries. When these export shipments take place, they are subject to stringent safety and notification requirements included in the transportation of dangerous goods regulations and international codes in order to protect public health and the environment.

• (1420)

Senator Stewart: Honourable senators, I thank the Leader of the Government in the Senate for his response. I must say that it is not very reassuring, because what he tells us is that PCB wastes can be carried by civil airlines in Canada and, presumably, they can be carried on aircraft operated by the Canadian Armed Forces or any other aircraft flying in Canadian airspace.

I do not know why he emphasizes the fact that the British authorities did not object to the aircraft operated by Air Canada at Heathrow. I am concerned with the Canadian situation.

Will he not go back to the Minister of the Environment and ascertain if he cannot take some additional steps with regard to these three categories of aircraft, which might, if not prevented from doing so, find themselves carrying PCB wastes over Canadian territory?

Senator Murray: Honourable senators, I shall make inquiries of my colleague on that matter. Senator Stewart, in his earlier question, suggested that the minister had taken some steps with regard to a particular airline. I shall ask Mr. McMillan whether he has any further information to give us on that.

SPORT

XXIV OLYMPIAD—BEN JOHNSON—STRIPPING OF 100-METRE SPRINT GOLD MEDAL AND DISQUALIFICATION—REQUEST FOR COMPREHENSIVE INVESTIGATION—AVAILABILITY OF FUNDS TO ELIMINATE DRUG ABUSE

Hon. Raymond J. Perrault: Honourable senators, the events of recent hours have been sad and traumatic for all Canadians, and I know that all in this chamber agree that every effort must be made to ascertain the facts in the Ben Johnson case.

Our system regards a person as innocent until proven guilty. I would seek assurance from the Leader of the Government in this place that the most comprehensive investigation will be made of all of the medical and other grounds that led the Olympic Committee to strip the gold medal from Mr. Johnson, which he had won by his victory in the 100-metre event at the Olympic Games.

On the face of it, we are told by a medical panel that illicit substances were used by Mr. Johnson. Spokesmen for the Canadian team have told us that there was every possibility that some kind of liquid could have been injected into his drinking water prior to the event. However, before anyone condemns Ben Johnson, let us get all the facts.

I had responsibility for this area of activity at one point in my career and I know thousands of athletes who are working selflessly to represent Canada honourably at international and domestic events. We must not allow a pall to be cast over all of those who are working so earnestly to represent this country in the field of athletic endeavour.

Can and will the government today assure us that the Minister of State for Fitness and Amateur Sport will give us a little more than the statement, which he issued a few minutes after Johnson's banning, that Johnson will be cut off from federal government funding for the rest of his life—a statement he made before all of the facts have been made known? The announcement suggested that Mr. Johnson would be deprived of all of his rights as a Canadian athlete. I think that was a hasty judgment on the part of the minister and I hope it does not represent the view of the cabinet.

If there was wrongdoing—and there is overwhelming evidence that there was, and if that is demonstrated, we need an in-depth probe to find others who may have been responsible for leading this athlete to the decision to use an illicit substance. If, in fact, Ben Johnson used steroids, it may not have been a "solo" performance.

I think it can be said, without any contradiction, that Canada has been one of the leading nations of the world in the fight against drug abuse in athletics. That was the nature of our reputation under the previous government and it is the nature of our reputation under this government. We can tolerate only one standard: the very highest.

Just a few hours ago in Seoul one of our highly placed representatives from the ministry responsible for sport made the statement that it is impossible to undertake all of the drug testing necessary in the area of sports in Canada because there is just not enough money. Can we receive an assurance from the government, through the Leader of the Government in the Senate, first, that there will be an immediate probe to get all of the facts relating to the Ben Johnson tragedy out on the table, regardless of who is hurt and who is helped in the process; and, secondly, that there will be adequate funds to conduct an unremitting campaign against the use of drugs in athletics, a problem which threatens the very substance and essence of the Olympic principle?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, first of all, I agree that Canada has for some time been a leader in the area of drug testing and doping control. The policy that was brought in on this matter by our predecessors in 1983 was considerably reinforced by the present government in 1985. Naturally, an incident like this leads those responsible to examine processes and programs to see what other steps can be taken to prevent the use of drugs in sports and sports programs. They will be considering other initiatives, such as accelerated testing programs targeted at selected high-incidence sports; increased out-of-competition testing without prior notice; a review of the sanctions directed at athletes, coaches and administrators; an enhanced education program; continued efforts internationally at promoting uniform practices, policies and standards; and so forth. This is not to say that our program in this country has not been one of the best in the world. It has been, but at a time like this one does want to look at all elements of the policy.

Where I differ with the honourable senator is in the implication that, in this case, there has been any disregard of due process. The evidence has been that due process was followed by the Olympic authorities. I remind the honourable senator, who must know some of these people from his international experience as minister, that their judgment on the matter was unanimous and that they made that judgment after giving the representatives of the Canadian delegation full opporunity to present to them various alternative scenarios that might have explained the presence of those substances in Mr. Johnson's urine sample. They considered all those hypotheses and they rejected them unanimously.

Senator Perrault: Well, honourable senators, the Leader of the Government has made statements which I think are open to challenges. There was a chemical test administered—indeed, I think there were two tests to two samples produced by Mr. Johnson. But we have not had a full investigation into the possible circumstances relating to the manner in which those substances found their way into Mr. Johnson's blood stream. There has been a totally inadequate amount of time for that.

● (1430)

What I think some of us are saying—and I think many Canadians share this opinion—is that we need not only a medical report but an investigative report, which will assure us that, indeed, guilt has been fully established or innocence has been fully established. For the Minister of State for Fitness and Amateur Sport to announce a few minutes after the chemical testing had been completed that Mr. Johnson will be banned forever from sports in Canada and immediately cut off from any source of funding is, to say the least, draconian.

When Mr. Johnson returns to Canada, will there be any arrangements to set up a meeting with him and his coach, and other members associated with him in the coaching unit, to determine whether there was any possible way in which these illicit substances were innocently ingested by Mr. Johnson? That is an important question. Apart from anything else, the honour of the nation is at stake here. If guilt has been established, we should be absolutely relentless in our pursuit of all the facts. We should determine whether other sectors of amateur sport are afflicted by this malady—and I suspect that at least to some extent weightlifting is affected by this problem. What are we going to do to get rid of this curse of drug usage?

Does the statement made by the Minister of State for Fitness and Amateur Sport represent the final word of the government on this matter? If it does, that is a very unsatisfactory cover-up and will only lead to further abuse in the future.

Senator Murray: Honourable senators, I shall ask my colleague Mr. Charest whether he has anything further to add, but I resent very much the use of the expression "cover-up" directed at the government.

The honourable senator knows from his own experience that the first people to cry foul and to express, quite properly, their resentment at any government interference in their business are the people involved with sports and the Olympics. He knows that as well as I do.

Again, I ask my friend to recognize that there was due process in this matter. The one area on which I will agree with him, just on the face of it, is that there is probably more than one person involved in all of this. I trust that whatever investigation is under way by the Olympic authorities will bring out all of the facts in this regard.

Senator Perrault: I withdraw the expression "cover-up", because I want to be meticulously fair in this exchange.

When Abby Hoffman, an Olympic medalist and former athlete of great distinction who now serves this government, and is serving it very well, states that the resources simply do not exist to measure the full impact of illicit drug usage in sports in Canada, then we need an assurance that the resources will be found or that there will be at least some program put in place to provide the Fitness and Amateur Sport Department with the strength to help ferret out drug abuse wherever it may exist in Canada's sports programs.

Senator Murray: Honourable senators, again my honourable friend must know that we are at the beginning of a process here. The science, technology and innovation in that particular field consistently run ahead of the ability of the government and enforcement agencies to detect this effectively. That point was made in public last evening by some of the experts who serve the Olympic authorities. My friend must have been following the various news conferences last evening, as I was and as I suspect most Canadians were.

This is a very, very sad day for all Canadians, but I disagree with my honourable friend—the honour of this nation is not at stake.

Senator Perrault: The leader contradicts almost every member of the Canadian team meeting members of the international community in Seoul. I think the honour of the country is in question, and I think we have a repair job to do.

Senator Murray: The honour of the country is not quite as fragile as that.

Senator Perrault: We have a disagreement, then.

HUMAN RIGHTS

JAPANESE CANADIANS—GOVERNMENT COMPENSATION—EFFECTIVE DATE AND APPLICABILITY

Hon. Jerahmiel S. Grafstein: I have a question for the Leader of the Government in the Senate. First, I want briefly to commend the government for the announcement made on September 22 with respect to compensating Canadian citizens of Japanese descent for actions taken during the war and following.

The question I have for the Leader of the Government in the Senate is: When is the effective date of the measures respecting partial compensation for Canadian citizens of Japanese descent and to whom does it apply?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): What was the latter part of the question?

[Senator Murray.]

Senator Grafstein: What is the effective date when Canadians of Japanese descent can claim, and to whom does it specifically apply?

Senator Murray: Honourable senators, I have some information on that matter, but I would have to take those specific questions as notice, at least while I pour through the documents I have in front of me.

Senator Grafstein: While the Leader of the Government is perusing his notes, perhaps I can make a further comment. This matter, as the Leader of the Government in the Senate will recall, was first promised by Mr. Mulroney in June of 1984. We were told in response to questions I raised in December of 1984 that the matter was under active consideration. I raised the question 19 times in the Senate, only to be told each time that either the matter was being considered or there was no response. I hope that when the government is giving consideration to this matter, if it has not already, it will take the effective date as being the date when the matter was first announced by the Leader of the Government in the Senate—the first possible date probably being when the government was elected.

The reason I say that is that some say slow justice is no justice; others say justice delayed is justice denied. I think it is very important that those Canadians of Japanese descent who, in the last four years, were concerned about this question might be considered for compensation.

Senator Murray: The answer to my honourable friend's question is that only persons alive at the date of the signing of the terms of agreement would be entitled to the redress described in the agreement.

Senator Grafstein: Perhaps the government could take it under advisement as to whether or not they would consider making the date the effective date when the government took office in 1984.

Senator Flynn: The agreement has been signed!

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a number of delayed answers. I shall identify them, and if honourable senators wish me to read a particular answer I will; otherwise, I shall ask that they be printed as part of today's proceedings.

POST-SECONDARY EDUCATION

GOVERNMENT ACTION OR POLICY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on September 1, by the Honourable J.B. Stewart, regarding Post-secondary Education—Government Action or Policy.

The answer follows:

The National Forum on Post-Secondary Education established a broad and enthusiastic partnership of all those interested in post-secondary education, and instilled a determination to work together in a number of key areas, including accessibility and student assistance; international students; university research; and data and research on post-secondary education. Building on the success of the Forum, the Council of Ministers of Education-Canada (CMEC) has created the Committee of Ministers Responsible for Post-Secondary Education, a new mechanism of regular consultation with the Secretary of State and major national organizations. The Honourable Lucien Bouchard met with the Committee and representatives of the key national interest groups in early June. At that time, he renewed the government's commitment to post-secondary education and announced a major initiative in the area of the official languages in education.

To help the government address the issue of student assistance and accessibility, the first of the four priorities identified by participants at the Forum, two groups have been established to help examine the Canada Student Loans Program. The National Advisory Group on Student Assistance includes representatives of major student organizations, university and college administrators and financial institutions. The Intergovernmental Consultative Committee on Student Financial Assistance is composed of officials from the provinces and territories, as well as representatives of the Department of the Secretary of State.

With the valuable insight and guidance provided by these two bodies, the government plans to move rapidly to make administrative and legislative changes to deal with student debt-load and repayment difficulties and enhance access for disabled and part-time students, as well as single parents.

Secondly, recognizing the many benefits of welcoming international students to our post-secondary institutions, the minister and his colleagues are working with the provinces, the private sector and non-governmental organizations to encourage these students to study here. Already, a number of important policy changes at the federal level reflect their efforts: student visa fees have not been introduced, employment restrictions for international students and their spouses have been reduced, and a doubling of CIDA-assisted students and trainees over the next five years, to a total of 12,000 students a year, has been announced. It is anticipated that half of these CIDA-assisted students will be trained in Canada.

The Department of the Secretary of State is continuing to consult with key organizations, in order to develop better coordination on the issue of international students. The department is also supporting several research studies related to this important area, including a survey of international students while in Canada and a study on West German students who have studied here. In addition, the department is cooperating with other federal departments in financing the production of better data on international students, and funding a film to promote public awareness of how Canada gains from the presence of these students.

Senator Stewart may already be aware of the significant strides that have been made in the past year towards strengthening Canada's research capabilities, the third area on which the government is focusing its attention. Part of the $1.3 billion in additional funding that the government will be spending for science and technology over the next five years will be used to establish networks of centres of excellence across the country and provide scholarships for those entering science and engineering programs. Moreover, the research granting councils have recently seen their aggregate budget increased by $200 million. These measures will encourage young Canadians to direct their energies into these vital fields and create partnerships between our post-secondary institutions and industry.

Of increasing importance to the overall effort to meet the challenges and opportunities of the 21st century are improved national research and data bases on post-secondary education, the last of the four priorities targeted in Saskatoon. The provinces and territories are working with Statistics Canada to improve the educational data currently available. In the area of research, the department sponsored a meeting organized by the Association of Universities and Colleges of Canada (AUCC) last May, which allowed representatives of government and post-secondary interest groups to share existing research and identify topics for further investigation. The two orders of government are exploring ways to intensify their collaboration in this field and to support increased research into post-secondary education itself.

Finally, there has been considerable progress by this government in the area of official languages. A central part of our official languages policy is support for minority language education and second official language instruction at all levels of the educational system. Through bilateral agreements with the provinces and territories, the federal government provides substantial funding for these programs. On June 7, the Secretary of State announced that $1.2 billion, representing an increase of $145 million over the previous five years, would be made available for official languages in education during the period ending 1992-93. Post-secondary education for Francophones living outside Quebec will remain a top priority under the bilateral agreements, along with the expansion and development of teacher preparation programs for minority and second language teachers.

SOLICITOR GENERAL

CANADIAN SECURITY INTELLIGENCE SERVICE—REQUEST FOR CONFIDENTIAL FILES FROM PROVINCES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on September 1, by the Honourable H.A. Olson, regarding Solicitor General—Canadian Security Intelligence Service—Request for Confidential Files from Provinces.

The answer follows:

CSIS has authority under the CSIS Act to make arrangements to facilitate cooperation and exchange of information with the provinces and police forces within provinces. Under these arrangements there is no indiscriminate trading of files. These exchanges of information are all subject to the provisions of Access and Privacy Laws and of equivalent provincial legislation. Any agreements between CSIS and the provinces must, by law, be given to the Security Intelligence Review Committee. The Committee has reviewed the agreements in the light of the Privacy Act and has found them to be "unobjectionable".

AGRICULTURE

EFFECT OF ACID RAIN ON MAPLE SYRUP PRODUCTION IN QUEBEC—GOVERNMENT ACTION

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have the response to questions of September 7 by Senator Hays and Senator Bonnell regarding Agriculture—Effect of Acid Rain on Maple Syrup Production—Government Action.

The answer follows:

Factors associated with forest decline in Quebec are: atmospheric pollution, climatic variations, insect infestations, and improper forest management.

In December 1987, the Quebec Agricultural Producers Union (APU) presented a memorandum to the Cabinet Committee on Acid Rain outlining the long term effects maple decline could have on the maple sugar industry. The Prime Minister indicated on February 6, 1988, in Ste-Marie de Beauce, that Canada would take all the necessary measures to fight acid rain, a problem considered by many to be the major cause of maple decline. The APU again appealed to the Prime Minister in March 1988 requesting that more intensive research be undertaken and that a fertilization program be initiated.

In April 1988, the Canadian Forestry Service (CFS) sponsored a workshop attended by experts on acid rain. As a result of the workshop, scientific and technical personnel from the CFS have since developed a program proposal, to be cost-shared between the federal and provincial governments and industry, which addresses the request made by the APU to the Prime Minister. The provincial department of Energy and Resources in cooperation with the industry—Agricultural Producers Union, Federation of Wood Producers and the Maple Producers Co-op—were also active participants in the development of the proposal.

The proposal is presently before the respective federal and provincial ministers for authorization, and an announcement is anticipated in the very near future.

NATIONAL DEFENCE

NUCLEAR-POWERED SUBMARINES—SUGGESTED PURCHASE OF BRITISH VESSELS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on September 15, by the Honourable M. Lorne Bonnell, regarding National Defence—Nuclear-Powered Submarines—Suggested Purchase of British Vessels.

The answer follows:

The evaluation process of the proposals by France and the United Kingdom for a nuclear-propelled submarine design has not yet been completed. It is not the intention of the government to link the choice of the submarine design for the Canadian Navy to any extraneous consideration.

THE ENVIRONMENT

ISSUANCE OF LICENCE FOR RAFFERTY-ALAMEDA DAMS PROJECT—PROTECTION OF MANITOBA'S INTERESTS—RESPONSIBILITY OF GOVERNMENT TO CONDUCT STUDY

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to questions asked in the Senate on September 20 and 21 by the Honourable Gildas L. Molgat regarding Issuance of Licence for Rafferty-Alameda Dams Project—Protection of Manitoba's Interests—Responsibility of Government to Conduct Study.

The answer follows:

There is no federal legislation dealing with interprovincial water-control projects. If these projects have impacts which more directly involve federal responsibilities, these are assessed under the terms of the appropriate federal legislation.

A federal licence was required for the Rafferty Dam project because the project is located on a stream, the waters of which eventually flow into the United States. The licence was issued under the terms of the International River Improvements Act (IRIA). The conditions attached to the licence ensure that international obligations are met.

Moreover, in any activity that involves Canada and the U.S., Canada works with provincial and U.S. authorities in order to see that individual provincial interests are protected and the necessary evaluations carried out.

ORDER PAPER QUESTION

LAPRADE FUND—REQUEST FOR ANSWER

Hon. B. Alasdair Graham: Honourable senators, I address this question to the Leader of the Government in the Senate. I am impressed by the five delayed answers that the Deputy Leader of the Government has given. I want to refer again to a question that I asked 20 months ago, in February 1987, with respect to the LaPrade Fund. I have raised this question again and again, most recently in the Senate on September 13, at which time I asked if Senator Murray could enlighten us as to the reason for the undue delay in responding to the question. To quote Senator Murray on that occasion, he said:

> I regret that I cannot do so, honourable senators, but I shall do my best to expedite a reply.

I am wondering if Senator Murray is any closer to giving us a response; if not, could he explain the reasons for the delay?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I made some inquiries about that matter following my exchange with the honourable senator. If my recollection is correct, the reply was ready but was then withdrawn while the department brought up to date some of the statistics contained in it. I expect to have the answer the honourable senator is seeking any day now.

ANSWER TO ORDER PAPER QUESTION
CANADA POST CORPORATION

RURAL POST OFFICES

Question No. 45 on the Order Paper—**By Hon. M. Lorne Bonnell:**

28th June, 1988—1. Does Canada Post have plans to close many rural post offices in Canada during the next eight years?

2. If the answer to the above is yes, how many rural post offices in Canada will be closed or franchised to private enterprise during the next eight years?

3. How many people are employed by Canada Post in rural post offices in Canada?

4. What percentage of these employees are women?

5. How many of these rural post offices will be franchised out during the next eight years?

6. How many of these rural franchises will be open for stamp counters only?

7. How many of these rural post offices will give full postal services?

8. How many of these rural post offices will be privatized or franchised out in Atlantic Canada during the next eight years?

9. How many rural post offices have been considered for privatization or franchise in Prince Edward Island during the next eight years?

10. Which rural post offices in Prince Edward Island are under consideration for closing or franchising in the next eight years?

Reply by the Minister of Consumer and Corporate Affairs:

1. Canada's rural communities are vital to Canada Post. In fact, one of the most important parts of Canada Post's commitment is making postal products and services more accessible to rural Canadians. To help do this, the Corporation plans to use the resources and the expertise of the private sector. Where practical, Canada Post is approaching local business people in communities across the country offering them the opportunity to provide postal products and services through their businesses. As a result, customers will be able to buy postal products or services in attractive locations at convenient hours, often including evenings and weekends.

At this time, any changes to rural post offices will result only from natural opportunities such as the resignation, retirement or promotion of the postmaster, loss of the post office site, or on the initiative of the community itself. In these cases, a comparable level of service will be maintained, even if there is a change in the method or location of that service.

The Corporation will provide at least 90 days' notice of such changes to allow input from those affected. This period will allow the Corporation to hear from people in the community who wish to make their views known.

2. Because each office is evaluated on a case-by-case basis as a result of natural opportunities, it is impossible to provide such a number.

3. Number of CPC employees who are members of the Canadian Postmasters and Assistants Association—9,401. Not one postmaster has been put out of work as a result of this program.

4. 82 per cent are women.

5. Not available—see number 2.

6. Rural franchises are full service postal outlets. The vast majority of rural post offices converted to the private sector will provide full retail services. However, specific numbers are not available as each outlet will be evaluated on a case-by-case basis.

7. See number 6.

8. Not available—see number 2.

9. Not available—see number 2.

10. Not available—see number 2.

THE LATE HONOURABLE CAMERON IRWIN McINTOSH

FORMER LIEUTENANT GOVERNOR OF SASKATCHEWAN—TRIBUTES

Hon. Sidney L. Buckwold: Honourable senators, I wish to draw to the attention of the Senate the untimely death of the

former Lieutenant Governor of Saskatchewan, the Honourable Cameron Irwin McIntosh, whose home was in North Battleford. He died at the age of 62.

Honourable senators, Mr. McIntosh held his appointment from 1978 to 1983. When he was named he was the youngest lieutenant governor ever to have held that office in the province of Saskatchewan. He was the editor and publisher of McIntosh Publishing Company Limited and the editor of the award-winning weekly newspaper, the *North Battleford News-Optimist*. As an aside, his distinguished father represented that area of Saskatchewan in the Parliament of Canada many years ago.

Mr. McIntosh, as the Queen's representative in Saskatchewan, continued the long tradition of outstanding public service of those who have undertaken this high office. He was very much a people's lieutenant governor, visiting, as he did on a regular basis, the smaller towns and villages of that province. His office was always open to anyone who wished to speak with him and he represented the Queen with great dignity and honour. I am sure all honourable senators share with me the expression of deep sympathy to his widow, Mrs. McIntosh, and to his family.

Hon. Rhéal Bélisle: Honourable senators, I wish to associate myself with what has been said by Senator Buckwold in tribute to Mr. McIntosh. As the President of the Canadian Wildlife Foundation, I can say that for the last four years he was an active member of the foundation and put forward good ideas, many of which were implemented. I am pleased to say that his contribution to the Canadian Wildlife Foundation will be long remembered by its members.

CANADA CHILD CARE BILL

SECOND READING—DEBATE ADJOURNED

Hon. Brenda M. Robertson moved the second reading of Bill C-144, to authorize payments by Canada toward the provision of child care services, and to amend the Canada Assistance Plan in consequence thereof.

She said: Honourable senators, in reviewing the information relative to Bill C-144 one can see that the work done towards the establishment of this bill has been going on for a considerable period of time. I know that most senators are familiar with the contents of the bill and with the aims and objectives of the government as set out in this important piece of legislation.

In looking back over the events having to do with the issue we could go back to the summer of 1984, when child care emerged as a key issue in the political debate of the leaders of the three parties. It was mentioned again in November 1984 in the Speech from the Throne. In February 1986 a parliamentary committee on child care was established and public hearings were held across the country. At the First Ministers' Conference in 1986 there was much discussion about child care, and in January 1987 the Minister of National Health and Welfare placed it on the agenda of his first federal-provincial meeting of social services ministers.

[Senator Buckwold.]

This work has been going on now for four years. In March 1987 we received the report of the parliamentary committee on child care. The province of Ontario announced its child care policy position some months later. In December 1987 the federal response to the report of the parliamentary committee on child care was tabled. That same month our national strategy was specifically announced, after which the first round of negotiations took place at the meeting of the federal-provincial deputy ministers, when the provinces submitted their plans. As those of us who have worked on complicated federal-provincial arrangements realize, this is a long, arduous process. Therefore, when the bill was given first reading in the House of Commons on July 25, 1988, much work had been done and many people were thus informed of the direction the government was taking in terms of the legislation. This past month the legislative committee of the other place has heard more than 40 groups.

I reviewed that chronology of events just to remind honourable senators that this is not a new topic on the agenda and that much work has been done with respect to it. The Standing Senate Committee on Social Affairs, Science and Technology has also spent a great deal of time on this issue. Five *in camera* meetings of that committee took place in 1987 and 1988, after which there was established a Subcommittee on Child Care, which produced a report in response to the government's position. The subcommittee held many meetings and heard from many witnesses. As a result of all of that, honourable senators, the minister and the government have been flexible in their approach to this legislation. Some substantive amendments have been made by the minister, and I am sure most honourable senators are aware of them. Substantive amendments have been suggested by the provinces, by witnesses in committee and by members of the NDP and the Liberal opposition party. Technical amendments have also been made and, although I suppose they are not as important as the more substantive amendments, one can conclude that a great deal of work has been done in this regard.

Honourable senators, Bill C-144, the Canadian Child Care Bill, is no stranger to those of us in this chamber or to the members of the Standing Senate Committee on Social Affairs, Science and Technology or, more particularly, to the members of the Subcommittee on Child Care. Honourable senators, because we knew this legislation was to be forthcoming, because we had had ample warning of it and information relevant to it, in my humble opinion I could see a great deal of merit in the pre-study of it. Unfortunately, we were not able to arrange an appropriate pre-study. However, I now welcome the opportunity to participate in the debate on the Canadian Child Care Bill.

The national strategy on child care actually has four parts to it, and this is the last of the four planks to drop into place. Before I get into the specifics of the bill, however, I should like to remind honourable senators that the national strategy on child care is really an integral part of the government's efforts to support and to encourage individuals in meeting both their employment and their family requirements. It is also an inte-

gral part of our efforts to achieve full equality of opportunity for women.

Two years ago, at the First Ministers' Conference in Vancouver, the Prime Minister identified the lack of affordable, flexible and quality child care in this country as being one of the most persistent barriers preventing women from making a full contribution to the nation's social and economic life. The proportion of women in the paid work force has expanded considerably over the last two decades from approximately 35 per cent in 1966 to approximately 56 per cent today.

● (1450)

I should note, honourable senators, that the government's economic policies have contributed significantly to developing new and interesting employment opportunities, and women have been disproportionately successful in seizing these opportunities. Of the 1.3 million jobs created since the last federal election, over 725,000 have been filled by women. Three-quarters of those 725,000 jobs are full-time positions. In fact, the number of jobs held by women has been growing at a rate almost twice as fast as the number of jobs held by men.

Viewed in this context, the government's national strategy on child care is as much about extending social justice as it is about extending economic justice. We want Canadian women and mothers to be able to participate in the work force if they so choose. We want them to be able to develop their own capacities and expand their own horizons to the degree they wish to do so.

Our country is facing new economic and social challenges that, as a nation, we must meet over the coming decade. In meeting these challenges Canada must be able to call upon the resources, energies and initiative of all Canadians who wish to be involved.

Child care has become a pressing problem for an increasing number of Canadian families, especially as the traditional family structure has changed to include more single-parent families and two-earner families than ever before. There is probably no greater stress on an income-earning mother than worrying about the well-being of her children because adequate child care facilities are simply not available. That is a situation that the government proposes to change, honourable senators, through the national strategy on child care.

The national strategy represents a major step forward in the development and improvement of child care services for Canadian children. Unlike other proposals that have been made in the past, and which continue to be repeated, the government's approach meets an important national obligation in a manner that I believe is caring, flexible and, perhaps most important of all, workable. The goal of the strategy is to improve the availability, affordability, quality and the accessibility of child care services in Canada. That goal is clearly articulated in the preamble to the legislation and supported through the various provisions of the bill.

The government's approach respects the fundamental basis of our family-based society. Parents have the right as well as the responsibility to make their own choices as to the best means to care for their children. At the same time the government's strategy respects the jurisdiction over child care services that is exercised by provincial and territorial governments. Provinces already have a variety of child care services and programs relevant to their particular needs and regional circumstances.

In examining the terms of this legislation, honourable senators, my colleagues need to keep in mind the respect for parental choice and provincial jurisdiction that is fundamental to the government's approach. As well, the bill has to be viewed within the context of all four interrelated elements of a national strategy on child care, of which Bill C-144 reflects only one part.

Let me briefly review the other three elements of the strategy: enhanced tax assistance to families of young children, a new child care incentives fund, and accredited day care services for Indians on reserves.

The tax component, which is now law, will benefit well over one million Canadian families. For parents with receipted child care expenses, the maximum child care expense deduction has been doubled to $4,000 for each preschool-age child. There is no limit on the number of children. That more adequately reflects the actual out-of-pocket costs that many Canadian families incur for child care, especially in the home. This will make child care considerably more affordable and should help create a demand for more and better child care spaces.

For parents with preschool-age children who remain at home to care for their children or use the unreceipted child care services, a supplement to the child tax credit has been provided. This supplement is $100 this year and $200 for next year and subsequent tax years. The effect of this supplement will be to raise the total child tax credit to approximately $760 per child by 1989.

These tax measures are already in effect. This chamber has voted upon and passed the government's ways and means motion required to authorize them. I am told that the supplement, as well as the child tax credit itself, will be prepaid in November to those Canadian families who qualify under the prepayment process. I believe approximately two-thirds of the amount is paid in November and the final one-third is paid when the tax form is filed.

The child care initiatives fund is an integral component of the strategy. It promotes innovation in the field of child care services, stimulates the creation of services in areas that are currently underserviced, and supports initiatives designed to enhance the quality of child care across the country.

This seven-year, $100-million program provides financial support for pilot projects, applied research activities and enhanced information services. Links have been established with the provinces so that potential projects can be reviewed and perhaps financially supported by both levels of government. This program has been operational since May of this year. The Minister of National Health and Welfare has already approved $1.5 million of project contributions. The

projects range from conferences at the local and national levels to a major national study on parental practices and preferences with respect to child care. This study is similar to one that was carried out in 1981, but which needs to be updated. I will come back to that later.

The national strategy on child care has been expanded to include and recognize the special needs and concerns of Canada's native peoples. If our indigenous people are to be full and productive participants in Canadian society, they must have access to flexible and affordable child care comparable to that available to other Canadians so they can pursue job opportunities and improve their quality of life.

The objective of the $60-million program, which will begin next spring, is to create approximately 2,000 accredited day care spaces over the course of six years. Initial funding will be used for pilot projects to determine exactly what is needed in terms of Indian child care services and how they should be delivered. Again, this government does not want to impose on the Indian communities services that are inconsistent with their needs, values and traditions. That would not reflect the caring approach the government has taken to this important social issue.

Honourable senators, this legislation represents the final element of the national strategy on child care. It authorizes the federal government to enter into agreements with provincial and territorial governments to share in the costs of the provision of child care services.

Furthermore, the bill authorizes the government to commit some $4 billion over the next seven years in order to meet the goal of creating a minimum 200,000 new and subsidized child care spaces. The $4 billion figure represents the financial commitment required to achieve the growth in spaces as well as to ensure that the quality of the child care system overall—both existing as well as new spaces—continues to improve.

Some critics of the strategy have suggested that the 200,000 goal is too low, honourable senators. These people fail to recognize that this figure represents only those spaces for which governments are providing a minimum level of operating support. Moreover, it also reflects what provincial governments can reasonably be expected to achieve over the next seven years.

Cost-sharing arrangements authorized under this legislation follow the well-established Canadian tradition of a fifty-fifty balance in sharing the financial commitment to the operation of social services. However, the government, wisely, has also recognized that not all provinces are at the same stage of development in their ability to pay for their child care services. That is why the legislation contains a top-up provision, permitting the government to increase funding to certain provinces based upon the national average entitlement per child. This measure will help to ensure that provinces are equally able to stimulate their child care services.

● (1500)

A major and somewhat controversial change over the past practices with respect to the funding of child care services is that, for the first time, child care spaces in commercial as well as non-profit agencies will be eligible for federal cost-sharing. This decision was made because the national strategy on child care is based upon a practical, flexible and workable approach to the issue of child care services. Fully 40 per cent of Canada's existing child care spaces are now in the commercial sector. To ignore that basic fact is to deny the reality of how child care services have developed across Canada over the last few decades.

The government believes that a successful strategy is one that builds upon the strengths of the system that exists and adapts to the regional diversity of this country. That is not to say that the government is encouraging new developments in the commercial sector to the exclusion of the not-for-profit sector. Nothing could be further from the truth. The federal government will, in fact, be offering additional support to the non-profit agencies by sharing in fully 75 per cent of the capital costs involved in the development of the non-profit agencies. Commercial centres are not eligible for this capital funding.

I think, honourable senators, in taking this approach to commercial and not-for-profit child care spaces, the federal government has demonstrated the same pragmatism as the Canadian public shows on this issue. Parents are much more concerned about the quality of the child care that is being provided than with the ownership of the facility. Frankly, the government shares that priority and is working to improve the quality of child care services of all types and in all regions.

One of the methods that have been adopted to improve quality is the manner in which the government has approached the treatment and the development of standards. In clause 4 of this legislation, the federal government has made a significant commitment to improving child care standards in the areas of most importance to Canadians, such as health and safety, qualifications of child care workers, child-staff ratios, the size and the mix of age groups in care, program content and parental involvement.

In these areas provinces signing cost-sharing agreements with the federal government will be required not only to develop appropriate standards but also to have methods of enforcing them. Standards enforcement procedures will also have to be widely publicized within each jurisdiction, and evidence will have to be provided to the federal government that this enforcement is taking place.

The people who have criticized the Canada Child Care Bill on the ground that it has not imposed national standards across the country misunderstand both the fundamental nature of this country and the role of standards themselves.

Canada is a multifaceted and multicultural, pluralistic society. It reflects values and traditions that vary considerably from region to region. To impose monolithic standards across the country means hindering the ability to develop innovative and creative approaches to child care that build upon regional needs.

[Senator Robertson.]

At the same time, child care services are very much in an embryonic stage of development. To freeze the continuing development of these services in a mold of arbitrary national standards is to deny the Canadian public a flexible, sensible approach to child care.

The federal government recognizes the need for experimentation, better information and more collaboration on what constitutes quality in child care and is supporting this effort through the Child Care Initiatives Fund, as well as by requiring that provinces address standards in areas such as health and safety, as I mentioned earlier.

Parents want to be assured that the standards developed for child care services reflect their own values, the norms of the communities in which they live and the traditions of the regions of which they are a part. That means parental participation in the kind of standards of quality that will define the child care services to which they entrust their children.

I know that past governments have attempted to take a rigid approach to social policy issues only to discover that government alone does not have all the answers. This government has stated that the quality of child care should meet the highest possible standards, but the rights of parents and communities are paramount in defining what those standards should be.

I am sure that parents, caregivers and professional groups will be working closely with provincial authorities in developing or improving standards in the areas that the government has identified as being most important. To give that kind of consultative process time to achieve results, the federal-provincial agreements that will be signed under the terms of this legislation include the negotiation of a time period within which standards and enforcement procedures are to be put in place.

Honourable senators, the provinces are also being given the opportunity to sign agreements under the new Canada Child Care Bill or remain within the existing day care provisions of the Canada Assistance Plan. Under the latter approach, the federal government has traditionally shared in about 35 per cent of provincial child care expenditures. The terms of the new act would increase that proportion to at least 50 per cent, or higher, for those provinces where the top-up provisions will apply. In fact, under the terms of this legislation, the federal financial commitment alone will be twice the total of the combined federal and provincial expenditures of the last six years.

The point of the federal strategy is not to put limits on what the provinces have been doing but to enable and to encourage them to do more with stronger federal financial support.

Solving social or economic problems in Canada requires taking a politically balanced and sensitive approach to different regional and provincial needs. It also requires developing partnerships with those closest to the problems and those most affected by them. Above all, it means setting realistic objectives and finding a workable means through which those objectives can be realized.

All members of this chamber, indeed all Canadians, agree on the need to improve the availability, affordability, accessibility and quality of child care services in Canada. Through this legislation and through the other elements of the national strategy on child care the federal government has taken the leadership role in expanding and improving child care services.

In financial terms, the commitment to the federal-provincial cost-sharing program alone is almost $4 billion. That is a lot of money, and does not include the estimated $800 million annual federal share to maintain the expanded child care system after the initial seven-year boost period. Nor does it include the other three elements of the national strategy on child care—the tax measures, the Indian day care services and the Child Care Initiatives Fund—which raise the total federal commitment to $6.4 billion over the next seven years.

Honourable senators, there are compelling reasons why even those who argue for a more ambitious program to develop quality child care spaces should permit quick passage of this legislation.

First, the tax measures to assist parents with the costs of caring for preschool-age children—that is, the enriched child care expense deduction and the supplement to the refundable child tax credit—are already in place. As well, the Child Care Initiatives Fund has already been established. To delay this bill further is to delay that part of the government's strategy that was designed to support the development of more licensed quality child care spaces.

Secondly, to delay this bill would also penalize those provinces that have made the commitment in the current fiscal year to expand and to enrich their licensed child care facilities in the expectation that they would qualify for the 75 per cent sharing of capital costs and the more generous sharing of operating costs provided for in this bill.

That agreement is retroactive to April 1 of this year. Therefore, if it does not pass, they will lose the money they have already spent.

If this bill were not to pass prior to an election, for example, and a new government were elected, by the time it drafted and passed its own child care legislation, provincial expenditures in this fiscal year would almost certainly not be covered.

However, if this bill were to pass before an election call, those provinces that are now expanding their child care services would be reimbursed for their expenditures this year, and a new government would be free to bring in its own legislation to apply to the next fiscal year.

I certainly hope, fellow senators, that there is no one in this chamber who would really discourage provinces from meeting the child care needs of parents simply to prevent this government from implementing its child care strategy.

To delay this bill, in short, would make it no easier for a new government to bring in its own policy but would deprive the provinces of enriched financial aid for the expansion of child care that they are undertaking this year. Moreover, by inhibiting that expansion, delay would force parents to wait longer for the child care spaces they need now.

In summary, we would in no way tie the hands of future governments by passing this bill; but we would break faith with provincial governments, parents and children by delaying it. Faced with that choice, our course is clear.

Through the national strategy the federal government is building a policy in partnership with the provinces, which, after all, are responsible for the provision of child care services and programs. It is building a policy in concert with parental and community groups that are taking advantage of the Initiatives Fund to develop new services in remote areas of the country to meet the special needs of parents and children—physically challenged children, children of shiftworkers and children of various cultural backgrounds, and the like. Above all, it is building a caring approach that respects the right of Canadian parents to choose the child care options that best reflect their needs and the needs of their children.

I believe that the government's approach to child care is developing a foundation for services in Canada that has the right balance and flexibility to accommodate parental, community and regional interests and that meets national objectives.

• (1510)

Again, honourable senators, I regret that the Senate did not have an opportunity to have a full pre-study of this bill. However, a great deal of work on the subject matter was done by a subcommittee of the Standing Senate Committee on Social Affairs, Science and Technology, and during the hearings of that subcommittee a number of witnesses were heard. Honourable senators, I believe the members of that subcommittee are familiar with the contents and subject matter of this bill and understand quite well what is happening. Because the members of both the subcommittee and the Standing Senate Committee on Social Affairs, Science and Technology are familiar with what was contained in this legislation, I thought it would be a delightful opportunity to have the minister appear before the Senate at its third reading stage in order to answer directly any questions interested senators might have with respect to this bill.

I know that all honourable senators have the right to attend the committee, but, from my short experience in this chamber, I doubt very much that we will see a great stampede of senators to that committee room to listen to the discussion.

Honourable senators, I urge swift passage of this bill, as it is a very important piece of social legislation; it is a piece of legislation on which we can build in the years ahead. I am sure all honourable senators would like to see major progress made in this area and I therefore urge you not to delay in any undue way the passage of this bill.

Some Hon. Senators: Hear, hear!

Hon. L. Norbert Thériault: Honourable senators, I have listened with keen interest to the speech by my colleage from New Brunswick. It brings back memories of the times when we were both involved—either as minister or as critic—in the debates on social programs in our own province. While I was listening to the honourable senator making her speech, I could not help but think what she might have said had she still been the minister responsible for social legislation in New Brunwick and this type of legislation had been offered by a Liberal government in Ottawa—God forbid!

[Senator Robertson.]

Honourable senators, it is unbelievable that a government, elected four years ago with one of its main promises or policies stated to be the provision of child care—not child care legislation but child care for Canada—should bring forth in the dying moments of its term of office a bill that in fact does very little to provide child care, especially for those who most need it in this country.

The honourable senator who has just spoken knows as well as I do that the Province of New Brunswick could not possibly have instituted a medical care program unless national standards had been set and there was no time limit on that program. Half of the provinces—and especially the poorer provinces—will base their expenditures for this social measure on legislation that limits the program to seven years. There is nothing in this bill that I can see that provides for this program to continue on after 1995. I certainly hope—and indeed I would so propose—that the federal government comes to some agreement with the provinces in 1995. To my knowledge, this is the first time that a national government has embarked on a national social program with a set time limit written into the legislation—

Senator Murray: Do you want to double the spaces or don't you?

Senator Thériault: Honourable senators, I am just beginning my speech. I will get to that point in a minute. I know you cannot stand this, but you will have to listen for a few moments.

The fact of the matter is that the philosophy behind this legislation is the same kind of philosophy that we have heard expounded by the government for the last four years. Simply put, it provides more money for those who have the most and the least money for those who have nothing. That is the reason I cannot accept this legislation.

Senator Murray: Is that what the government is proposing?

Senator Thériault: Honourable senators, I know that it is not just the poor people who require child care legislation. I also know—as does everyone here—that child care legislation should not apply only to preschoolers. We know that in our cities, in our towns and even in the rural areas of this country there are children six, seven, eight and nine years of age coming home from school with their house keys around their necks. They have no place to go after school hours—and sometimes no place to go before school, because their parents must leave home for work at 5.00 and 6.00 in the morning to travel 30 or 40 miles to their jobs. There is nothing in this legislation to provide assistance for those children. Oftentimes it is children between the ages of six and 13 who most need to be cared for before and after school hours when their parents are not home.

Senator Murray: It is not restricted to any age.

Senator Thériault: Honourable senators, again I repeat, four years after this government came to office, and in the dying moments of its term, it offers legislation which it tells us will be better than what we have now. However, I am worried, and my worry is caused by the Meech Lake Constitutional Accord—and this matter was raised during the debate on Meech Lake. In my heart I favour Meech Lake. I favour it because it will bring Quebec into the Constitution. I favour it because I was told by the Prime Minister and by the premiers, and by all of those who support it, that in fact it will not prevent national standards for legislation with respect to programs that are primarily within provincial jurisdiction.

Honourable senators, up to this moment I have debated this point in my own mind. I have wanted to believe the Prime Minister and the premiers. However, three or four months ago, when we were talking about child care legislation, I said to myself: "This will be the proof of whether, in fact, under the Meech Lake Accord we can have the national government set national standards for social programs." Honourable senators, I am afraid I still do not know whether we can or cannot have such standards set by the national government, because in this bill they have not even tried.

Senator Murray: Tried to do what?

Senator Thériault: Is it because of the Meech Lake Accord—

Mr. Leader of the Government, if you want to talk, answer this question: Is it because of the Meech Lake Accord that there are no national standards set in this legislation?

Senator Murray: Look at our medicare legislation; look at the post-secondary education legislation.

Senator Thériault: My honourable friend, I would inform you, if you do not know, that the medicare legislation was passed and there was no time limit set on that program. There was a time set to review it, however.

Senator Steuart: Yes, we were there.

Senator Thériault: There was no time limit set on that medicare legislation. The honourable senator was not around and never sat in any legislature at that time when the medicare legislation was passed—

Senator Murray: And yours was the last province to come in!

Senator Thériault: That is the problem with you; you don't know anything about it.

Senator Steuart: Give it to them, Norbert!

Senator Thériault: I must tell you, honourable senators, that I agree with the senator who is proposing this legislation in this chamber that maybe it should be passed—

Some Hon. Senators: Hear, hear!

Senator Thériault: But, in my opinion, it is too bad that this legislation was not brought before the Senate at a time when we had the time to study it thoroughly.

Senator Robertson: We did study it!

Senator Thériault: It is too bad that we do not have the time to hear the witnesses who were refused or did not have the time to appear before the committee in the other place.

Why is it that this legislation is not based on the report of the committee of the other place, which included recommendations to the government on child care legislation? Why did the government not listen to its own committee that travelled across this land and brought back suggestions that would have provided child care legislation as we should have it in this country?

● (1520)

Senator Steuart: He certainly has you there, fellows!

Senator Thériault: The honourable senator from New Brunswick gave a great speech because she knows the subject matter. However, I know that in her heart and soul she is not satisfied with this legislation. No one who has worked as she has at the provincial level and been faced with the social problems that exist in our province can be satisfied with this kind of legislation. Maybe it is better than nothing.

Senator Flynn: You were just speaking against it!

Senator Thériault: I am concerned—

Senator Flynn: You are mixed up!

Senator Thériault: I am concerned for many reasons. I could go through this legislation clause by clause and express concerns over every one of them. Why is it that this legislation includes a provision to amend the Canada Assistance Plan? Why? There is in that statute now a provision to assist, at least in the most dire cases, those people who must depend on public assistance to provide education, food and shelter for their children. Why does the government not leave that statute as it is until we know what this legislation will do for the poorer people? Why is it that those who would benefit the most from this legislation are those who can afford the most.

Senator Murray: Is the Government of New Brunswick opposed to this legislation?

Senator Thériault: Do not give the tax credit for child care to people who earn $40,000, $50,000, $60,000, or $75,000 per year. Why do you not give the same amount that is in the tax credit to the people who do not earn that kind of money? Why not? Because it is against your philosophy.

Senator Murray: Where do you want to cut it off? Tell us!

Senator Thériault: Honourable senators, I know of what I speak. My children will benefit from this legislation. Two of them work and they are earning around $75,000 or $80,000 a year. They will benefit, but how much benefit will people in my community who have to live on $10,000 or $12,000 a year get from this legislation? How much benefit? I know that honourable senators of the Conservative philosophy do not want to think about that, that they do not want to deal with that problem.

Senator Murray: Your government will support the legislation!

Senator Thériault: I know that they are against that kind of philosophy.

Senator Murray: Nonsense!

Senator Thériault: That is why they are promoting this kind of legislation.

Senator Frith: Hear, hear! I don't know what Norbert said, but, if you say it is nonsense, it must be "Hear, hear!"

Senator Thériault: Honourable senators—

Senator Murray: I thought Lorna Marsden was speaking on this bill for the Liberal Party!

Senator Frith: She's going to.

Senator Thériault: —I will tell you why I intend to support this bill. It is because I have been told that there will be an election and that it may be called this weekend. If an election is called this weekend, knowing this government and this Prime Minister and how they do not keep their promises, I would like to see this legislation passed, because, should this government be returned after the election, we would have no legislation at all and we would have to wait another four years until the next election.

Senator Murray: I disagree with your conclusion, but I certainly like your premise!

Senator Steuart: They don't want it passed!

Senator Thériault: Nevertheless, having said that, this bill is nothing but a hoax. It is a hoax and it does not provide the care and assistance for those who need it the most in the way it should be provided. However, having said that, it is probably better than nothing.

Some Hon. Senators: Hear, hear!

Senator Robertson: Honourable senators, may I be permitted to respond to some of the questions that were raised indirectly by Senator Thériault?

Senator Steuart: Not likely!

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as long as it is perfectly clear that Senator Robertson is not closing the debate—

Senator Robertson: No, no.

Senator Frith: —I think she should have leave to respond.

Senator Robertson: Honourable senators, I should like very much to respond to my good friend and colleague Senator Thériault.

Senator Frith: And you can respond to her, Norbert.

Senator Robertson: I do not know where to start. The honourable senator has touched on a number of things. I do not know whether he has read the bill; that is my concern. Children up to 15 years of age are eligible for support.

Senator Thériault: When they are not in school!

Senator Robertson: No, no, no; zero to fifteen. Now, as you know, most of them are in school until 3.30 or 4 o'clock, but they are eligible to the age of fifteen.

[Senator Murray.]

The honourable senator talked about how the legislation deals with people in poverty. The government has an agreement with the provinces that they must maintain the same ratio of spaces for children living in poverty as exists now. As you know, most of the money presently spent through CAP is directed toward those children living in poverty, because you cannot get it unless the children are in poverty. That ratio must be maintained; otherwise the province will lose its funding. They must provide the spaces for children in need.

I have not been annoyed with the honourable senator for a long while, but it irks me—

Senator Frith: What did she say? Did she say she was annoyed with Norbert?

Senator Robertson: It irks me a little bit that you seem to think that the Liberals have the corner on the market—

Senator Frith: This is a provincial dispute!

Senator Robertson: —for concern over poverty. That is so ridiculous. I want to comment on something that I think is terribly important. I do not have any notes here, because I was not sure—

Senator Thériault: Honourable senators, I hope I will be given the same privilege to reply when the honourable senator has finished!

Senator Frith: Absolutely; leave has been granted.

Senator Steuart: This is the new "chit-chat" type of debate that is prevalent in the Maritimes!

Senator Robertson: The honourable senator asked why we have not set the standards as they are in the Canada Assistance Plan, or why we had not made them correspond to the national health standards. I want to jog the honourable senator's memory a little bit. My response is really twofold. First, the bill contains in its preamble its objectives. They are "to improve the availability, affordability, quality and accessibility of child care services." To achieve these objectives the bill provides substantial financial support to the provinces. Provinces such as ours can get up to 90 per cent funding, which is a very important factor. Long before there was a Hospital Insurance and Diagnostic Services Act in 1957—and I would ask the honourable senator to go back to that time in his mind—and long before there was a Medical Care Act in 1966, there was a health resources fund under which the federal government cost-shared with the provinces the cost of training health care professionals and establishing hospitals. I suggest to the honourable senator that that is where we are with day care. The most appropriate comparison with this bill is not—

Senator Thériault: I see; you are 50 years behind! That is where you are for sure!

Senator Robertson: You cannot turn the whole world around in four years, for Heaven's sake! Don't be foolish! The most appropriate comparison with this bill is not the Canada Health Act or its predecessors; it is that fund. I think the national objectives are very similar—to build up the service across the country to a point where it will meet the demand,

and then look at the system and the standards again, once people have had a chance to get involved, to see what other things have to be done.

Honourable senators, I cannot make another speech—

Some Hon. Senators: Oh, oh!

Senator Robertson: —but I do want to tell you that, if a province wants to stay in CAP, it can stay in CAP. There is no problem. The province can stay in CAP if it wants, but it will get much more money if it goes with the new program.

Senator Thériault: You're wrong!

Senator Robertson: No, I am not wrong. You can stay in CAP if you want to, but you cannot stay in CAP and also join the new program. It is one or the other.

An Hon. Senator: Give it to him, Brenda!

Senator Robertson: In CAP you get a maximum of 35 per cent. This program offers a minimum of 50 per cent, and goes as high as 90 per cent for provinces such as our province. After the seventh year—when you go into the eighth year—there is a guarantee. If you do your mathematics correctly, you will find that $800 million is allocated every year to this fund and that it is adjusted to the cost of living index. So don't worry about that matter; it will not disappear into the woodwork.

Some Hon. Senators: Hear, hear!

Senator Thériault: Honourable senators—

Senator Frith: And wearing the dark trunks!

Senator Steuart: Third round!

Senator Thériault: —not only does the honourable senator have a chance to make a third speech when she closes the debate but she gets carried away in her political enthusiasm and loses sight of the facts.

• (1530)

Honourable senators, I read this bill without pressure. I did not have to worry about making a speech that would support all of the clauses contained in this bill; I read this bill as a Canadian with an objective view, and as one who has been wanting and hoping for child care services for a long time. Honourable senators, in our previous legislation dealing with health services you will never find what you find in the preamble of this bill. The preamble says, ". . . that there is a need to improve the availability . . ." The Canada Health Act itemizes and sets out national standards. It also states that to participate in that program and to receive 50 per cent of the funding from Ottawa you must do this, this or that.

In terms of this bill, the government almost gives the municipalities the right to set standards. There is no national strategy set out in this bill. A national strategy is what John A. Macdonald had in mind when he built the railroad. What we need in this legislation is a national standard that will provide at least a minimum of child care services for the people in the Yukon and in New Brunswick, and not just for the people of Ontario or Quebec.

Some Hon. Senators: Hear, hear!

Senator Thériault: Furthermore, if this government had been sincere in wanting to provide child care, it could have used the model that exists in Quebec. That province has by far the best child care legislation to be found in this country. It could have used that program, which has been proven in the province of Quebec, and applied those standards across the country. The government did not do that. In this proposed legislation the government and the Prime Minister are trying to do what they are trying to do in every other instance: they want to be on all sides. They don't want to take a position. They don't want to sit on a chair and they don't want to stand! They want to sit on the fence and try to keep on all sides—and in this case the children of Canada will suffer!

Some Hon. Senators: Hear, hear!

Senator Robertson: You are coming from a centralist position and this government is not. We have confidence in the provinces, confidence that they have the ability to set the standards.

Senator Thériault: But they don't have the money!

Senator Robertson: We are giving them the money. We are giving them money that you have never even dreamed of!

Senator Thériault: You are giving $4 billion to the oil companies.

Hon. Azellus Denis: Honourable senators, may I address a question to the sponsor of the bill?

Senator Robertson: Please go ahead.

Senator Denis: If the honourable senator agrees that this is such a good bill, why did the government wait four years before introducing it? Last week we heard the Prime Minister say that the Senate was blocking the bill to the detriment of the poor people and the mothers and children of Canada, but this is the first day this bill has been dealt with by this chamber. Is it not, in fact, the case that for four years the government itself has blocked this bill?

Senator Robertson: I appreciate the honourable senator's comments, but I cannot agree with them. This government has been working solidly for three years to develop this legislation. The honourable senator knows, just as I know, that, when you have to start from scratch to work out new agreements and arrangements with the provinces, you cannot do that overnight. It takes time.

At the beginning of my speech I gave a chronological list of all the events that had happened over the last four years. I do not have a copy of it with me at the moment, but I would be glad to send one to the honourable senator, because he should be aware of the various meetings that took place, the work that was done, and the indicators that developed along the way as we developed our program and our policy leading to this legislation.

There has been a lot of negotiation, and those in the standing committee are familiar with the exercise that has been going on. I just hope that all members of the Senate have

the opportunity to understand and interpret this bill, because it is good legislation.

Senator Denis: I have one final question. Is it not true that Mr. Mulroney said he would not go to the electorate before this bill was passed, so that, if we allow it to pass, the Senate will be responsible for passing this bill?

Senator Robertson: Honourable senators, I think that generally the government is responsible for bills. If so much work had not been done on this bill by a variety of committees and groups, perhaps I would not feel as certain as I do about the bill.

No legislation is perfect, and legislation can always be amended. I am sure this legislation will be amended, because as research progresses we will find better answers to the problems. Unfortunately, the body of research and the yardsticks, if I may call them that, for measuring some of the more innovative programs are not yet in place; that is why this $100 million fund is in place to assist us to determine what is going on. We are a diverse country and we want to be able to offer these services to our many cultures.

One of the major problems in this country is that so many of us are raised on farms. When people live miles apart, it is very difficult to come up with a national standard of day care. We firmly believe that mothers and fathers should have a large say in how day care is developed and we want to spend time on research and in communication with the provinces and the people as we feel our way along.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, if I may, I should like to take up a point made at the end of Senator Robertson's first speech, to the effect that it might be a good idea to have this bill eventually referred, at second reading, to Committee of the Whole. I want to undertake on behalf of the government to do our best to produce the response of the minister, Mr. Epp, in this chamber for that purpose, if it is thought that we could in that way proceed to complete our study of this bill.

Senator Steuart: Saturday.

Senator Murray: I want to make that offer on behalf of the government. The house is aware that we did have a subcommittee, as was mentioned by Senator Robertson, which held 21 meetings and heard 15 witnesses. The Standing Senate Committee on Social Affairs, Science and Technology is also familiar with the contents of this bill. Of course, we have all heard the declaration of the Deputy Leader of the Opposition to the effect that it was the intention of the opposition in the Senate to hold this bill up for a month or so.

Hon. D.G. Steuart: No, no! On a point of order; he never said that. I listened to that very closely. When the Prime Minister said it would be about a week, he said that a month would be closer.

Senator Doody: Sit in your seat!

Senator Murray: The Honourable Deputy Leader of the Opposition can speak for himself, and he usually does.

Senator Steuart: He asked me to.

Senator Phillips: In a moment of weakness.

Senator Murray: I was rather hoping that the Deputy Leader of the Opposition would rise and say that he had been misquoted or that he had had a change of heart on the matter, and that he would demonstrate his interest in a national child care program for Canada by agreeing that, after Senator Marsden had spoken, we would give this bill second reading tomorrow, proceed to Committee of the Whole, and make a real effort to pass the bill into law. Certainly, the month that the honourable senator is quoted as having set out for consideration of this bill—

• (1540)

Senator Steuart: He never said that! Try to be factual.

Senator Murray: —would, in the event of a fall election, of course, mean that the bill would be dead. I hope that honourable senators would not want to carry that on their consciences, much less on their shoulders, as their leader, Mr. Turner, heads into a general election some time.

Senator Denis: I thought the honourable senator was rising in his place in order to give us the cost of publicity for the Free Trade Agreement.

Senator Frith: Honourable senators, I am not just sure where we are at at the moment. I take it that Senator Murray wanted to intervene in the debate before we put the motion for adjournment. On the question of his offer, as I have often had judges say to me, your offer has been noted, sir. As to the four weeks that I was reported to have given as an estimate, here is what I said. I cannot say I was misquoted, but what I was asked was what would be a normal period for a bill of this kind. I said a week or more of debate and about three weeks for committee study, considering the number of witnesses that we already know have written wanting to give evidence. That was quickly transferred into a statement that we would take a month. So I am glad of the opportunity and grateful to the Leader of the Government for giving me a chance to explain what it was that I said.

Senator Flynn: It still means a month.

Senator Frith: As to that estimate, it seems the first part is right. I do not expect that the debate on second reading is going to go more than a week, namely, longer than this week, and I think that the expectation that it will get to committee this week is reasonable. From there on we will see.

On motion of Senator Frith, for Senator Marsden, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

THE SENATE

Wednesday, September 28, 1988

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

Prayers.

THE HONOURABLE HENRY D. HICKS

FELICITATIONS ON RETURN TO CHAMBER

The Hon. the Speaker: On behalf of all honourable senators, I wish to welcome back our colleague, Senator Hicks.

Hon. Henry D. Hicks: If I may take just a moment of honourable senators' time, I should like to thank His Honour the Speaker for his kind remarks and to thank all my colleagues on both sides of the house for their kindness and attention after my rather stupid accident of July 8, which I am too ashamed to describe. I am glad to be back.

[*Translation*]

NEW SENATORS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Roch Bolduc

Solange Chaput-Rolland

Jean-Marie Poitras

Gérald-A. Beaudoin

INTRODUCTION

The Hon. the Speaker having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writs of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

Hon. Roch Bolduc, of Ste-Foy (Quebec), introduced between Hon. Lowell Murray, P.C., and Hon. Arthur Tremblay.

Hon. Solange Chaput-Rolland, of Montreal (Quebec), introduced between Hon. Lowell Murray, P.C., and Hon. Paul David.

Hon. Jean-Marie Poitras, of Quebec (Quebec), introduced between Hon. Lowell Murray, P.C., and Hon. Martial Asselin, P.C.

Hon. Gérald-A. Beaudoin, of Hull (Quebec), introduced between Hon. Lowell Murray, P.C., and Hon. Jacques Flynn, P.C.

The Hon. the Speaker informed the Senate that the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

• (1410)

[*English*]

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I know that it is not customary to comment on the occasion of the introduction of new colleagues, but I crave your indulgence for a moment, because this is a rather special occasion in that—

[*Translation*]

—in fact, the appointments of four new senators are the first to be made in consultation with the Quebec government according to the procedure established when the Meech Lake Accord was signed in June 1987.

As was stated by Prime Minister Mulroney, these appointments confirm that the federal and provincial governments can cooperate and agree on the selection of distinguished Canadians to sit in this institution.

I also know that Senator Ottenheimer, our colleague from Newfoundland, was the first to be appointed following the procedure set up as a result of the Meech Lake Accord. These four new senators are the first to be appointed from the Province of Quebec under this accord.

Honourable senators, I think that we should welcome the expertise and knowledge our new colleagues are bringing to the Senate.

Honourable Senator Solange Chaput-Rolland brings with her her vast knowledge of Canada and her experience in political debates of the last few years which she lived as much as a commentator as a member of the Quebec National Assembly or as a member of the Commission on Canadian Unity.

Senator Gérald Beaudoin, who is also a former member of the Pepin-Robarts Commission, is bringing to us his highly recognized constitutional expertise at a time when Canada is about to thoroughly examine the role and contribution of the Senate within our federal institutions.

Senator Jean-Marie Poitras is a highly considered businessman from Quebec, a province which is said now to be booming.

By welcoming Senator Roc Bolduc, we pay tribute to one of the main forces behind the reform of the Public Service in Quebec. We shall certainly benefit from his long experience.

Honourable senators, I am convinced that you will all join with me in wishing our new colleagues a very warm welcome.

● (1420)

[*English*]

THE LATE GEORGE PARKIN GRANT

TRIBUTES

Hon. Richard J. Doyle: Honourable senators, George Parkin Grant died yesterday in Halifax.

There need be no lament for this great Canadian—only a lament for ourselves that we have lost this bold and angry scholar who was a hero to so many of my generation and an inspiration in many ways to the sons and daughters of those who first chose him as their champion in struggles for peace and justice.

A.A. Travill, writing in *The Canadian Encyclopedia*, called him "a philosopher of apparently implacable pessimism." I recognize, as all Canadians must, the urgency of Grant's warnings that we would be the losers in the inexorable North American drive to the technological society, with its glib substitutions for articles of ancient faith.

And yet, in a book of regrets, Grant finishes with these words:

> Multitudes of human beings through the course of history have had to live when their only political allegiance was irretrievably lost. What was lost was often something far nobler than what Canadians have lost. Beyond courage, it is also possible to live in the ancient faith, which asserts that changes in the world, even if they be recognized more as a loss than a gain, take place within an eternal order that is not affected by their taking place. Whatever the difficulty of philosophy, the religious man has been told that process is not all.

And then he added these words from Virgil: "They were holding their arms outstretched in love toward the further shore."

I shall remember George Grant with arms outstretched, if only in some welcoming gesture—for he was the politest of men, the most amiable of companions, and the gentlest of antagonists. His marriage to Sheila, whom he met at Oxford, began a partnership that ornamented the institution of matrimony.

It was my misfortune not to have known Grant as a teacher, for he had a genuine calling to the profession and not just dedication and a diploma. He said that in his smart-alec stage he had thought of becoming a lawyer, but, like both of his grandfathers and like his parents, he taught.

Born in Toronto, he went to Upper Canada College, where his father had been headmaster, and to Queen's, where his grandfather had been principal. As a Rhodes Scholar, he went to Oxford. After the war he taught philosophy at Dalhousie, and then, at McMaster, from 1960 to 1980, was chairman of the Department of Religious Studies. His final contribution to academic life came as professor of political science and classics at Dalhousie.

[Senator Murray.]

Among his books are: *Philosophy in the Mass Age*, *Technology and Empire*, and *English Speaking Justice*. His student and friend, Dean Wayne Whillier of McMaster, tells me that Dr. Grant, not long before his death, wrote a postscript for his *Two Languages of Theology*, which is about to be reprinted.

But the most famous of his writings was surely that short and electrifying *Lament for a Nation*, in which we read of John Diefenbaker as a victim of this country's disappearance into the American vortex. Grant wrote:

> This meditation is limited to lamenting. It makes no practical proposals for our survival as a nation. It argues that Canada's disappearance was a matter of necessity. But how can one lament necessity—or, if you will, fate? The noblest of men love it; the ordinary accept it; the narcissists rail against it. But I lament it as a celebration of memory; in this case, the memory of that tenuous hope that was the principle of my ancestors. The insignificance of that hope in the endless ebb and flow of nature does not prevent us from mourning. At least we can say with Richard Hooker: "Posterity may know we have not loosely through silence permitted things to pass away as in a dream."

But I cannot leave you with that melancholy passage. Instead, think of these lines from another work:

> At the worst stage of the war for me in 1942, I found myself ill, and deserted from the merchant navy, and went into the English countryside to work on a farm. I went to work at five o'clock in the morning on a bicycle. I got off the bicycle to open a gate and when I got back on I had accepted God . . . But I have never doubted the truth of that experience since that moment . . . If I try to put it into words, I would say it is the recognition that I am not my own.

Honourable senators, his words are with us—the legacy for us and for Canadians for generations to come.

Hon. Henry D. Hicks: Honourable senators, I shall not try to gild the lily by adding to the well prepared remarks made by Senator Doyle about my friend and former colleague, George Grant. He was, indeed, a great teacher. I was not a pupil of his. My wife was, however, and maintained a lifelong respect for and friendship with George Grant and his wife, Sheila, who survives him. I was a colleague of George Grant's at Oxford. I remember him rowing in the middle of his college crew, and a more incongruous oarsman, I think, was never seen on the Isis at Oxford.

While he may have been an intellectual pessimist—and I do not agree with George Grant's views as well as I think Senator Doyle, by implication, does—he was, nevertheless, a lover of life. The fact that he loved life and loved people made him the great teacher that he was.

I regret his passing. He had a marvellous influence on hundreds of young people, many of whom did not agree with his views but all of whom were stimulated by his intellect and by the challenge that he gave to them. Indeed, his passing, at a

relatively early age, is unfortunate. Canada does lose a great scholar. I, myself, lose a friendship extending over a long period of time. I am glad that Senator Doyle did the work that he did in putting on the record of this chamber something of the career of a truly outstanding Canadian scholar.

PATENT ACT

BILL TO AMEND—REPORT OF COMMITTEE PRESENTED AND PRINTED AS APPENDIX

Hon. Ian Sinclair: Honourable senators, I have the honour to present the thirty-third report of the Standing Senate Committee on Banking, Trade and Commerce respecting Bill S-15, to amend the Patent Act.

I ask that the report be printed as an appendix to the *Minutes of the Proceedings of the Senate* and to the *Debates of the Senate* of this day and that it 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. 4519.*)

● (1430)

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

Senator Sinclair: Honourable senators, before moving that the bill be read the third time at the next sitting, I should like to say that the report does not record the fact that Senator David held a contrary view during our discussions on the final draft. I merely want to put on record that Senator David expressed that contrary view.

Hon. Duff Roblin: Honourable senators, before the motion is put, I should like to say that I join Senator David in that I object to the report rendered to the house and to the fact that the bill has been reported without amendment. I do not know whether I shall have another opportunity to speak on the matter, but I do want to record my dissent.

Senator Flynn: I join with Senator Roblin.

Senator Frith: You will have a chance tomorrow!

Senator Flynn: It is pure propaganda!

Senator Frith: Look who's talking!

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

QUESTION PERIOD

FISHERIES

TRADE—UNITED STATES' CANCELLATION OF PERISHABLE PRODUCTS AGREEMENTS—ENTRY INTO UNITED STATES OF CANADIAN SEAFOOD PRODUCTS

Hon. Raymond J. Perrault: Honourable senators, I wonder if the Leader of the Government in the Senate can assure us that we do not have shipments of valuable Canadian seafood products parked at the U.S. border, awaiting entry, as a result of harassment by U.S. officials. I am sure that after the question was asked yesterday the honourable senator probably contacted the minister to determine the facts.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I am informed that the U.S. Food and Drug Administration officials have assured Canadian authorities that the reports to which my friend referred yesterday are based on a misunderstanding of an upcoming change in their regulatory procedures with respect to imports of perishable foods. The FDA has advised us that the new requirements apply only to sampled products and, furthermore, that only a very small percentage of the total imports of fresh food products are sampled. My colleague, the Honourable John Crosbie, has indicated that the change will require such sampled products to remain under the control of the first importer of record, whether a broker, wholesaler or other level of trade, until the FDA issues a release. Previously, sampled products could be sold direct to retailers, pending FDA clearance, if so desired. My colleague has also indicated that confusion occurred in the Seattle area, apparently due to a misleading directive, issued locally, indicating that all perishable products would be so affected.

Senator Perrault: Honourable senators, I thank the Leader of the Government for promptly supplying the information with respect to this question. It will be good to reassure B.C. fish producers that their products will not be stopped at the border.

Honourable senators, I have a question on another subject; so if someone else wishes to ask a question in the interim, I will take my turn again.

AGRICULTURE

ENHANCEMENT OF DROUGHT RELIEF PROGRAM

Hon. H.A. Olson: Honourable senators, can the Leader of the Government advise this chamber on the accuracy of some speculation that there is to be a significant enhancement of the drought relief program now that the harvest is partly completed, because in many localities that harvest is substantially lower than was expected even at the time the original relief program was announced?

Another reason I should like him to advise us is that there have been some other rumours to the effect that he may be preempted from making any announcements in this house next week by another announcement, which may be made later this week. Therefore, we would certainly appreciate an answer today; however, if it is not available now, perhaps he would take notice of the question and provide us with an answer tomorrow.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend will know that in opposition I never

circulated rumours—and in government I never comment on them.

Senator Olson: Would the honourable gentleman take the other suggestion and try to obtain an answer, because it is more than just rumour in western Canada that some kind of announcement will be made? It is much easier to plan your financial arrangements if you know what the government is going to do.

Senator Murray: Honourable senators, as soon as a decision is made, if a decision is made on that matter, I will communicate it to the Senate.

Senator Olson: We might not be here.

SPORT

XXIV OLYMPIAD—BEN JOHNSON—STRIPPING OF 100-METRE SPRINT GOLD MEDAL AND DISQUALIFICATION— REQUEST FOR COMPREHENSIVE INVESTIGATION—GOVERNMENT ACTION

Hon. Raymond J. Perrault: Honourable senators, one of the most respected figures in the administration of sports internationally is Mr. Richard Pound of Canada, the International Olympic Committee executive vice-president. He has achieved a world reputation for fairness and good judgment, and as a young man he performed on one of Canada's Olympic medal-winning athletic teams. In today's *Gazette* Mr. Pound is reported as follows:

> Pound said Johnson was "manipulated by his doctors, trainers and coaches," who ran Johnson's life.
>
> "Ben had a childlike confidence in them,"... "It's like when your mother gives you vitamins. You don't know what they are, you might not like the taste, but your mother tells you to take them, so you do."
>
> "For sure he didn't go out and buy stanozolol himself. And for sure he didn't sit on a needle or take 111 tablets by himself."
>
> "On the human level, it's tragic for Ben Johnson. I don't think he knew any better. He was manipulated by people, and they got it wrong. His life is spoiled, and the people around him will get away scot-free."

Honourable senators, they must not be allowed to get away scot-free.

I asked some questions yesterday and I will ask some further ones today.

Senator Flynn: Question!

Senator Perrault: I know that Senator Flynn, who has interjected, is just as interested in fair play as all of us.

Senator Flynn: I am interested in your question.

Senator Perrault: I am not encouraged, nor should Canadians be encouraged, by some of the statements made in recent hours by spokesmen for the government. Lyle Makosky, Assistant Deputy Minister for Sport Canada, said that the government has an obligation to uncover everyone involved in the drug scandal. He is reported to have said that, if we are not able to obtain clear, candid statements from the people involved, testimony under oath may be used. He said, "It's certainly an option open to us."

What kind of weak, pusillanimous statement is that from someone speaking on behalf of the government? Is only the Canadian Track and Field Association going to be given the problem of finding out the facts?

Honourable senators, there could be criminal implications to this case, and, if necessary, we should call on the Royal Canadian Mounted Police to find out just who manipulated Johnson, if, indeed, he was manipulated. Of course, whether or not he is, indeed, as guilty as some commentators say is yet to be determined. These are the kinds of questions—

• (1440)

Senator Flynn: This is—

Senator Perrault: Would the Honourable Senator Flynn please refrain from interjecting so much? Senator Flynn has a long and checkered career of interrupting parliamentary debate. He might learn more from listening.

Senator Flynn: Not from listening to you!

Senator Perrault: The question is—

Senator Flynn: I rise on a point of order.

Senator Perrault: You are rising on a point of disorder! That's the problem.

Senator Flynn: We will let His Honour the Speaker make that judgment. Senator Perrault knows very well that he is making a speech and is not putting a question. If he will get to the question, then he will be in order.

Senator Perrault: Some day Senator Flynn might be the Speaker and then he could tell us what to do—

Senator McElman: It will never happen; but, if it ever did, he would not dare!

Senator Perrault: —but from the position he currently occupies he is ill-equipped for that task. Senator Flynn seems desperately afraid that democracy might break out in this house.

The first question is: Were steroids administered to Mr. Johnson with or without his knowledge? In other words, is he guilty or not guilty? Is he an innocent victim of the machinations of others, as alleged by the executive vice-president of the Olympic movement? Are there criminal implications, and, if so, does the government propose to leave the matter with the Canadian Track and Field Association and with the Canadian Olympic officials? That is the suggestion in current issues of newspapers—that down the line somewhere there will only be an investigation of this type.

When does the government propose to take those actions necessary to assure the Canadian people and, indeed, those supportive of the sports movement in all parts of the world that, if wrong has been done, the perpetrators of that wrong shall be brought to justice, and that Johnson alone shall not be asked to bear all of the penalties and to pay the price for what

threatens to be the most shameful episode in our sports history?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, the Assistant Deputy Minister for Fitness and Amateur Sport, whom my friend quoted a few moments ago, was only saying in more detail what Senator Perrault and I agreed on yesterday—that is, the high probability that others were involved and bear some share of responsibility for the situation in which Mr. Johnson finds himself today.

The honourable senator has put a number of questions which I know he will not expect me to answer on the spot, or indeed answer on my own responsibility at all. The short answer to the honourable senator's question is that the investigation will be conducted, as these investigations are, by the Canadian Track and Field Association. Senator Perrault, as a former Minister of State for Fitness and Amateur Sport, will know that these organizations guard, quite properly so, their autonomy and freedom from interference by the government in their affairs.

Senator Perrault: Honourable senators, these are the statements that trouble some of us, and our concern is not restricted to people of a certain political party.

The spokesman for the government is quoted as having said:

> The CTFA will conduct an investigation into the Johnson affair when the Olympic team returns home next month—

Earlier in that article he stated:

> I do things my official way through the association.

Surely this is a time when the Minister of State for Fitness and Amateur Sport should be here in Ottawa attending a cabinet meeting to discuss what kind of investigative committee will be put in place to get all of the facts, and not let the rabbits be put in charge of the lettuce patch.

The organizations that are apparently going to conduct the investigation may need to be investigated themselves. Certain aspects of their operations should be investigated. It is important for us to know exactly what type of investigation is going to take place and whether it will have the confidence of the Canadian people. This cannot be left to some voluntary self-perusal.

Senator Murray: Honourable senators, to reiterate what I said yesterday, all of the evidence indicates that there was due process involved on the part of the Olympic authorities in the finding that was made and the decision that was made by that authority. There is time provided for an appeal. Meanwhile, the Minister of State for Fitness and Amateur Sport and Sport Canada have taken the only responsible action that I think they could have taken in the circumstances with regard to Mr. Johnson. Senator Perrault knows, and the whole country knows, what that action is.

I appreciate the point made by the honourable senator concerning the Canadian Track and Field Association, a body which he obviously holds in low esteem. That will be something, in considering the generality of this problem, the government will want to consider.

Senator Perrault: I hold the Canadian Track and Field Association in very high esteem, and I think that that association held me in high esteem when I was the minister.

Senator Murray: "The rabbits in the lettuce patch"?

Senator Perrault: I can say this: If the organization and its procedures are under suspicion, I am sure that the responsible members of the Canadian Track and Field Association would like an outside body to investigate the efficacy of its procedures. That is the fact.

The fact exists—

Senator Balfour: What of the—

Senator Perrault: The honourable senator opposite may not want an investigation; he may want a cover-up. I do not want a cover-up: I want the facts.

The fact is that, in addition to Johnson, two weightlifters representing Canada have been ruled out of competition. There is something basically wrong in the procedures being followed. Perhaps, with the best intent in the world, the procedures that are there now, administered by the good people of the CFTA, are not good enough.

Senator Murray: "The rabbits in the lettuce patch"?

Senator Perrault: No. I am saying that when an organization is under suspicion you do not put the rabbits in charge of the lettuce patch. That is a perfectly valid observation, and if the honourable senator opposite wants to keep us in the dark as to all of the facts, well, he is out of touch.

Senator Murray: The honourable senator's suggestion is by no means isolated to a single case.

Senator Perrault: Or to a single country.

Senator Murray: Or to a single country. But inasmuch as this concerns Canada, we do not exclude the possibility of a general inquiry into the problem.

I do remind the honourable senator, however, that the best procedures in the world—and I think ours are—could not have much more than a dissuasive effect. I heard one of the Olympic authorities on television last evening stating precisely that a regime that could exclude all possibility of doping was logistically and financially impossible, but naturally we want to make sure that our procedures are the very best that they can be.

As to the generality of the problem, we do not exclude the possibility of some government inquiry. As to the particular case of Mr. Johnson, the honourable senator knows that it is the Canadian Track and Field Association that has the responsibility of investigating this matter. I regret that he regards them as "rabbits in the lettuce patch", but so far as I am aware they have conducted themselves responsibly throughout.

Senator Perrault: One final question. The Minister of State for Fitness and Amateur Sport, within five minutes of the statement made in Seoul, said that Mr. Johnson would be

banned from sports for life and immediately cut off from funding.

Why did the minister not say, in a more responsible manner, that Mr. Johnson would be suspended from all activity and financial assistance until the facts were made known and ascertained? Is that not a fair attitude? Was it the minister's responsibility to join the lynch crowd, or should the minister have been part of the building team?

Senator Murray: Honourable senators, to have adopted the course suggested by Senator Perrault would have been to challenge the validity of the unanimous finding of the Olympic authorities on that matter.

The honourable senator knows what the finding was after the urine analysis. He knows as well that the Canadian delegation had full opportunity to present a case to offer alternative explanations and that these were considered, but it is clear from what the authorities have said, including Canadians who are part of the international body, that those explanations simply would not fly, and the responsible body, in that event, decided unanimously.

Senator Perrault: In other words, without all the facts made known but with a preliminary medical opinion, we say that he gets a life sentence. We do not worry about Canadian due process of law; we ignore the Canadian tradition that a person is innocent until proven guilty.

It has to be said that some of these countries represented on the committee do not have the same tradition of fairness as we have. The minister could have refrained in part and said that, because the immediate evidence was persuasive, there would be an immediate suspension pending an appeal process. This is what is done in other sports in Canada. In hockey, for example, there is an appeal procedure. There is an appeal procedure for every sport in this country. Yet this official for the government said, "We are going to give Ben Johnson a lifetime suspension. There will be no more money." An appeal procedure should apply in this case, just as it applies in any professional or amateur sport in Canada.

Senator Murray: There is an appeal procedure. Mr. Johnson, of course, is free to avail himself of it.

Senator Perrault: Yes, he is. So judge him after that.

Senator Murray: What my honourable friend calls a preliminary medical opinion is not a preliminary medical opinion. It is a conclusive, scientific finding and it has not been successfully challenged.

I would also say—this is not information that I have in my role as a member of the government but as an interested person who was watching *Radio-Canada* last night—that Dr. Dugal, a Montrealer, a Canadian who was part of the international body, said very clearly that the conclusion to be drawn from the analysis was, unfortunately, that anabolic steriods were being used and were present over a period dating back as far as four months.

[Senator Perrault.]

• (1450)

AEROSPACE

ESTABLISHMENT OF NATIONAL AGENCY

Hon. Stanley Haidasz: Honourable senators, I should like to ask the Leader of the Government in the Senate a question. Why is the federal government delaying the establishment of a national aerospace agency?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, we are not doing so.

Senator Haidasz: Then, honourable senators, I should like to ask the Leader of the Government in the Senate this question: Why is the Prime Minister neglecting to reply to a letter from the Premier of Ontario, who requested that the national aerospace agency be established within the boundaries of the National Capital Region?

Senator Murray: Honourable senators, our position is that the government must first focus on some of the major space program issues. For example, we have approved Canada's participation in the space station program, a $1.2 billion investment in research and development that will benefit all regions, Ontario in particular. My friend can take that word back to the Premier of Ontario if he wishes to do so.

The financial participation of Ontario or, indeed, of any other province in the Canadian space program is something that the government has encouraged. Some provinces have agreed to contribute to the Radarsat program. We hope that Ontario will be one of those provinces.

The creation of the space agency is, of course, a federal responsibility. We will be glad to have our officials talk with Premier Peterson's officials on this matter. As I have indicated, there are other actions, initiatives and decisions to be taken before we reach the point where we will be making a decision in the matter to which my honourable friend alludes.

Senator Haidasz: Are we then, honourable senators, to have to wait impatiently for an announcement on the establishment of this agency during a forthcoming general election campaign?

Senator Murray: Honourable senators, I could only answer that if I knew the date of the election.

[*Translation*]

OFFICIAL LANGUAGES

RIGHTS OF FRANCOPHONES IN ALBERTA—STATEMENT OF PREMIER GETTY

Hon. Eymard G. Corbin: Honourable senators, my question is directed to the Leader of the Government in the Senate and Minister of State for Federal-Provincial Relations.

Several of us have been completely overwhelmed by a press report in which the Alberta Premier is reported as saying that Albertans are sick and tired of bilingualism being shoved down their throats.

The *Globe and Mail* article which reported his statements also quoted the following statement by the Leader of the Government in the Senate:

[*English*]

> I am not going to express any emotion about it. The facts speak for themselves.

[*Translation*]

The previous paragraph stated:

[*English*]

> Senator Lowell Murray said Mr. Getty's assertion is "belied by the facts—just look at the makeup of the R.C.M.P... the number of senior civil servants and senior ministers who are from Alberta and Western Canada."
>
> But Mr. Murray, the Conservative minister responsible for federal-provincial relations, was restrained in his comments.

[*Translation*]

I repeat his statement:

[*English*]

> I am not going to express any emotion about it. The facts speak for themselves.

[*Translation*]

Mr. Minister, what is the status of bilingualism in Alberta now? Are we going to let a situation deteriorate in a province where the rights of the francophone minority are denied? Or is the federal government going to take the bull by the horns with realistic initiatives in the short term?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, Secretary of State Lucien Bouchard is currently negotiating an agreement with the Alberta government to help that province's linguistic minority.

I make it my duty to obtain from my colleague a progress report on these negotiations. The last time I raised the issue with him, he told me point-blank that the negotiations were progressing at a good pace.

[*English*]

CANADA CHILD CARE BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Robertson, seconded by the Honourable Senator Ottenheimer, for the second reading of the Bill C-144, An Act to authorize payments by Canada toward the provision of child care services, and to amend the Canada Assistance Plan in consequence thereof.—(*Honourable Senator Marsden*).

Hon. Lorna Marsden: Honourable senators, at last, as of September 27 of this year, the Senate has seen legislation backing up the July 1984 election promise of the Conservative Party, a Child Care bill with a national program.

Child care is a first priority for many men, women and, of course, the children of this country. It is a first priority certainly for people on this side of the chamber for reasons that are familiar to honourable senators. Children are the future of the country; as some people say, the country's greatest natural resource.

Families have changed both in structure and composition and, in some cases, function. Child care is a necessity for the majority of Canadian families. It is of particular importance to low- and middle-income families who have a pressing need for good quality child care in a context of national standards that permit families to do with support for their children what they do for economic reasons, which is to move around the country according to economic demand.

Child care requires the participation of parents in its establishment, in its running, and in its maintenance, because the participation of parents is crucial to the quality of care that results. Quality means that community and parental ideas about quality for their children prevail, not some bureaucratic regulations drafted in an obscure and distant government office.

Child care requires choices. Child care must be supportive of families, of how families are organized and of what they want to do for and with their children. So we must look at the legislation in front of us in terms of these criteria. Does it fill the desperate need for good quality child care spaces for Canadians? Does it allow parental participation? Does it permit families to make choices about the kind of care and the situation of care for their children?

• (1500)

No one expects a full-blown program of child care to begin at once. The question is: Does the current legislation in front of us provide the structural foundations for the kind of child care system the families and children of this country deserve in the future?

Some time ago the Standing Senate Committee on Social Affairs, Science and Technology established a subcommittee on child care, which reported to this chamber in July 1988. Our report on child care appeared before the legislation was tabled. I want to stress that point, because Mr. Epp was quoted the other day as saying that the Senate had prestudied the child care legislation. That is not accurate, and I urge the Leader of the Government in the Senate to point that out to his colleague. The Senate report was on Mr. Epp's December 1987 proposed program. We have not yet looked at the legislation at all.

So we come to this legislation with eyes informed by the report, but with fresh eyes, especially in looking at the amendments that were made in the other place—both those amendments that were accepted, some of which are important, and

those that were not accepted, some of which were equally important.

In our subcommittee report on child care we looked at the program proposed by Mr. Epp in December 1987 and raised a series of questions, which we said we would put to the legislation when it finally appeared in front of us. I would like to remind honourable colleagues that this was a unanimous report, and the questions remain to be addressed. Those questions can be found on page 20 and subsequent pages of our report. I will, in abbreviated form, review those questions.

The first one was: Is the funding adequate? Our witnesses had raised many questions about the adequacy of the funding.

We then asked whether the standards that are required across this country would be set and how they would be enforced. We will be asking those questions of the legislation.

We asked what provisions there would be for training care-givers across this country. How will the federal-provincial arrangements promote training? What actions will governments be prepared to take to ensure that child care workers are well trained? Will federal and provincial governments take salary increases into consideration in determining funding arrangements?

We asked how the standards would be implemented. Will provinces be asked to commit themselves to achieving specific objectives regarding standards in the initial period? What other assurance will there be that the provinces will set and enforce standards? We will need to look at that in the legislation.

We also asked: Will growth in the for-profit sector be contained and growth in the non-profit sector be promoted? Honourable senators will realize that that question needs special review in terms of this legislation.

We asked if fee subsidies would be approved. Fee subsidies are a highly controversial matter in the legislation in front of us, and great fears were raised that subsidies would be dramatically reduced, thereby reducing the quality of care across this country.

We asked how new spaces would be developed in the country and what would be asked of the provinces. We asked especially what the role of the federal government would be in all of this.

Those questions remain. They form the basis of the way in which the Senate committee needs to examine the legislation in front of us.

There are two matters I should like to draw particularly to the attention of senators this afternoon. The first is the need for child care. I do not think there is any disagreement among the people of this country that there is a need for child care, but it is the context and standards of that child care that are the controversial aspects of this legislation.

We need to remind ourselves that there always has been—and I mean everywhere in this country—a need for child care. This is not a sudden need which has emerged in the late 1980s. For the most part the tradition has been that parents have had to fend for themselves and, all too often, unfortunately, children have had to fend for themselves. But some crucial incidents in our history have led us to the knowledge that we are perfectly capable of developing a good child care system in Canada. Notably, during the Second World War, when the labour of women was in demand, the government funded and established child care centres in this country wherever they were needed, under the leadership of Mrs. Fraudena Eaton. After the war, however, when there was a move to push women out of the labour force to provide room for men returning from the front, those child care spaces and child care centres disappeared. That experience has been extremely informative and important in the child care movement in Canada.

The Royal Commission on the Status of Women, in its 1970 report, made the case for child care as a right of Canadian parents rather than a special privilege. The previous Liberal government commissioned Dr. Katie Cook to study this issue in some depth. She produced the first full-fledged examination of this subject, of the views of Canadians, of the needs of Canadians in the contemporary period and of the alternatives available to Canadians in comparison to those available elsewhere.

As the Cook report pointed out, and as we should all keep in mind, there is an international context for state child care. France has provided child care since the beginning of the nineteenth century for the children of industrial workers. Since the beginning of the nineteenth century, and certainly by the beginning of the twentieth century, it had developed one of the best child care systems in the world—a full, flexible, high-quality standard of child care, which is the measure against which we need to test our ideas and proposed programs.

The Scandinavian countries and Germany and Italy all have well-known and well-studied programs of child care that have been useful to Canadians in formulating their ideas. But all of these countries are countries that have high rates of female labour force participation.

Last week, for other reasons entirely, I was visiting Japan. In that country, which has a low level of labour force participation among married women, I had the opportunity to visit two child care centres. One of them, in a small town, was a centre for children from the ages of three months up to school age and was of the highest quality. It was a community-based child care centre run by municipal government, with municipal workers, children whose parents were in the labour force, and children whose parents were not in the labour force but wanted their children to be with other children during the day. I have brought back the literature from that child care centre. You could see the educational component of that child care centre and what it was doing for those young Japanese, and some foreign, boys and girls.

Later I visited a child care centre for after-school care, a centre where children go after school to meet their friends and to be looked after until seven or eight o'clock in the evening in some cases. It was a centre with sports equipment, a whole range of musical instruments, books and a craft centre. That type of centre exists in every community, rural and urban. In

that country the necessity for child care is a result of community demand; it is not only a matter of economic necessity.

In looking at this legislation it is crucial that we realize that Canada is behind the rest of the developed world in this essential service. Some provinces are very progressive on this issue, but, as a nation, this is an absolute priority for this country. I believe most Canadians recognize that the program we develop must meet our unique conditions and needs. It must help to build the kind of country that reflects the values of the Canadian people about the community, about the children and about the need to develop the values which we hold important.

We also need to remind ourselves that we do have child care programs in existence in every province and territory. Funded through the Canada Assistance Plan in part, this has put tax dollars into the hands of the provinces to help low- and middle-income families in an open-ended program that has encouraged provinces to build the system they can afford, a system that reflects the necessities and priorities of the provinces.

● (1510)

What has happened so far in Canada in child care has not proved adequate to contemporary demand. However, it has built a foundation of care. We are not without experience in this field. Canada has almost 200,000 licensed spaces now, but the need is much greater than that and increases every day. We have many good and well-trained child care workers; we have people who know how to organize and manage child care centres in schools, in the community and in the workplace; we have a strong and effective advocacy movement in Canada. Above all—and I think this should be paramount in our thinking as we consider this legislation—we have mothers and fathers who have a very clear idea of what good care for their children is, what quality means and what they want and what they must have for their children.

The role of government should be to help these parents and these children to attain quality child care; it should not be to constrain them; to order them around or to curtail those who want to develop this system in our country. Yet it appears that Bill C-144 does those unfortunate things.

Honourable senators, it is claimed that this bill will create approximately 200,000 spaces over the next few years. Yet we know that it is a reasonable estimate that 300,000 spaces would have been created under the existing program, the Canada Assistance Plan. Therefore, this legislation limits growth and, by not including national standards, it shows no commitment to the requests and values of the children and parents of Canada.

This legislation was condemned by every one of the 40 witnesses—that small number of witnesses—who were permitted to appear before the House committee. Day care advocates dislike this bill. Day care advocates who have been calling for legislation on this issue are now saying that they prefer the inadequate arrangements of the Canada Assistance Plan to this bill.

On the other hand, honourable senators, this bill does not make the other side happy either. Those people who believe that child care is not the way to go in this country, and who want to stay home to look after their children, are very unhappy with this legislation. They have pointed out that this legislation gives only an extra $200 a year to the family at home, which does not make it possible for one parent in most families to stay home and look after their children. Therefore, the legislation makes no one happy. Also, of course, under tax law, receipts for child care deductions continue to be required, which, of course, hurts most those who have low incomes. As Mr. Turner pointed out in his speech in the other place on Monday of this week, these tax deductions give the highest priority to those families in the highest income bracket. If this bill takes effect, a family in the top tax bracket with two preschool children will receive $3,600 per year, whereas a single mother on a low income will receive only $200 per year.

Honourable senators, we could go on and look at the individual arrangements that have been made with the provinces in order to ask what is included in those arrangements and what will happen to families who move from province to province. What can such families expect? What kind of stability will they have? What kind of access will they have to child care? What kind of quality care will be provided across this country? Also, does this legislation really force provinces to support commercial or for-profit care?

Honourable senators, I expect that we will ask these questions and many more in committee. We will ask them because, of course, this legislation is not only crucial to the children and families of this country but reflects the way in which this government intends to treat other vulnerable Canadians, such as older Canadians. These are the quite basic indications of the sentiments of this government towards Canadians in vulnerable situations.

However, there is another matter I should like to draw to the attention of all honourable senators. It is an issue that I believe concerns us all, both those who favour this piece of legislation and those against it. I refer to the process that is under way with this legislation, which ends up putting the Senate, I believe, in a highly compromised position. Honourable senators, let us review what has happened.

Mr. Mulroney promised, in the summer campaign of 1984, that a child care program would come forward as a first priority. The task force was then already under way and was to report in March of 1986. In the meantime, because he was pressed to make good on his campaign promises, a special parliamentary committee was set up in November of 1985. That committee took the show on the road and consulted widely across the country. That committee was to report on October 9 of 1986, but instead it got a four-month extension and finally reported on March 30, 1987. The government, of course, was required to respond within 150 days.

Honourable senators, we waited. Finally, on December 3, 1987, Mr. Epp announced his proposed child care program. It was on that program that the Senate made its comments. All of that, however, had to be translated into legislation. Honour-

able senators, when did the legislation—in other words, what was actually to happen as opposed to what had been considered for action—finally appear? Not until July 25, 1988—four years after such a program had been promised as a great priority.

Honourable senators, this legislation appeared in the middle of a particularly long, hot summer. It received first reading on August 11. It finally received second reading and went to committee. However, even before the bill had received third reading in the House the Prime Minister was accusing the Senate of holding it up. He obviously did not know where his own legislation was!

Some Hon. Senators: Hear, hear!

Senator LeBlanc: Can't read the calendar!

Senator Marsden: One wonders what the reaction of senators here is to such an ill-informed accusation. Are the members of this chamber really prepared to accept that kind of abuse of this chamber?

Honourable senators, when the bill went to committee in the other place, the process there was described as "absolutely unprecedented". Of the many groups who asked to be heard in the other place, only 40 were allowed to appear. Those voluntary associations of Canadians from coast to coast had to organize their briefs and presentations at extremely short notice, in the middle of summer, under a set of committee rules with which they were unfamiliar and which, I might add, were ill explained to them. The funding of their travel expenses to appear as witnesses was so badly mishandled that some groups simply could not afford to appear; they did not know whether they would be reimbursed. They therefore complained loudly, and with very good reason, about the way in which they were treated by the committee in the other place.

Those groups who managed to appear—under great stress and at short notice—were given 30 minutes each in which to make their presentations and answer questions.

An Hon. Senator: Is that all?

Senator Marsden: That is all the time they were given: thirty minutes in which to deal with a piece of legislation which is of historic importance. It is among the most important pieces of legislation to occur in this country, and is equally as important as the founding of pensions, Unemployment Insurance and health care.

Senator LeBlanc: A sacred trust!

Senator Marsden: Honourable senators, out of this carefully selected list of 40 groups who finally made an appearance before the committee in the other place, not one witness agreed with the contents of this bill. In particular, they all said that it did not represent the consultations of which they had been a part and which had been going on, apparently, for the last four years—one of the reasons we did not have the legislation sooner.

However, honourable senators, it is not only the advocacy groups for and against child care legislation who are unhappy. Provincial governments are not happy with these arrangements either, and we have been hearing about their unhappiness over the last few weeks. Those provincial governments are crucial, because there are no national standards in this legislation. Therefore, this bill is really a fiscal arrangements bill. Child care, under this legislation, is to be negotiated with each province and will therefore be different in each province—different even in its basic elements. This is a factor which the Senate committee will have to consider and which, I hope, the chamber will also consider in instructing the committee on how to undertake hearings on this bill.

However, honourable senators, even under those circumstances, the committee in the other place did not hear from every province. We know that the legislation means that there will be differences in every province. Some will be in favour of it, some will be against it, but it is important for senators to realize that those very provinces that have the least adequate child care at the moment—the Atlantic provinces, which have the least development of their systems, for good fiscal reasons—have, in many cases, the greatest need. They have, as we have heard in the Senate subcommittee, understaffed government ministries and very few people who know how to establish, maintain and enforce standards. They have the least number of trained child care workers. They have the lowest wages and the fewest spaces. Were they heard from in the committee in the other place? No, they were not.

● (1520)

An Hon. Senator: Intolerable, as usual.

Senator Marsden: The Atlantic provinces were not heard and very few people from the western provinces were heard. There is a unique situation in each province and territory with respect to child care. This issue of the interaction of federal and provincial legislation, as senators have reason to know, is absolutely crucial. The Standing Senate Committee on Social Affairs, Science and Technology spent a great deal of time examining the impact of family allowances and the tax arrangements for children in terms of how the federal and provincial laws interacts to provide benefits in some provinces and few or no benefits in other provinces.

Child care is another case in point. We need the answer to the question of who will be better off and who will be worse off under this legislation. Those answers have not been forthcoming on the other side. All we have are further questions. Surely, whatever honourable senators may think about the content of this legislation, they must be offended by this process. Surely, senators will want to allow Canadians who have important and informed voices in this field—parents; advocates; provincial, territorial and multicultural groups—to be heard by our committee.

There are issues such as those raised in Quebec where this legislation will not cover the progressive program of child care in the education system that has been established in that province. We know from the list of witnesses who have already asked to appear in front of our committee that there are several from Quebec who want to appear. This is a very crucial issue in this legislation.

Surely, we will want answers to the question about fiscal arrangements. Those senators who have followed the work of the National Finance Committee on the funding of post-secondary education in this country will realize that serious mistakes made at the beginning of such an important national program are mistakes that will have to be compromised with and accommodated for generations to come. Why make those mistakes at this period? Why not know more about the fiscal arrangements that need to be made?

There are witnesses in this list of 33 groups that have asked to appear before us who are competent to answer those questions. There are people, of course, in various departments of this government who are providing more information on this complicated question. However, the Senate has already been repeatedly accused of delaying, and was even before the House had finished making its own amendments to this legislation—some very crucial amendments that have raised new issues. These ill informed accusations should be corrected. The Leader of the Government in the Senate should assure us that he has corrected, or will correct, the record with his cabinet colleagues and that he will make it very clear to the government and to the people of this country that the Senate received this legislation only yesterday and is dealing with it quickly. We have shown in this chamber the seriousness with which we regard the issue of child care by the serious study we gave Mr. Epp's announced program in December 1987.

Child care is one of the most serious matters to come in front of this Parliament. It involves the children of this country, those who will lead this country in the future. It involves their parents and all the working people of Canada, and does so more than most of the pieces of legislation we have passed. It involves billions of tax dollars of these working people. So people deserve a say in this legislation. The government majority in the House has ignored the fundamental concerns of the Canadian people. It consulted them and then ignored their wishes, and now it wants to spend their tax dollars to create a child care system that no one—absolutely no one—in this country, except the cabinet, supports. I will not even accuse the Conservative backbenchers of supporting it.

An Hon. Senator: They haven't even read it yet!

Senator Marsden: The Senate committee must now take up the traditional responsibility of this chamber with, I trust, the support of everyone here to give this bill careful consideration, to hear witnesses, to ensure that Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island are not ignored this time but are heard along with other provinces, to ensure that the criterion for being invited to appear as a witness will not be the ability to pay, and that we will not allow the Prime Minister's unfortunate comments about this chamber to prevail over common sense, tradition and the parliamentary obligations of the Senate.

Some Hon. Senators: Hear, hear!

An Hon. Senator: On with the job!

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, the statement made by Senator Marsden is so complete and comprehensive that it is unnecessary to deal substantively with the issues that have been raised by the presentation of this bill. I should like, however, to make one or two comments about the bill itself and to refer to a number of statements made yesterday by Senator Robertson in her very thorough presentation of the contents of the bill and the national strategy for child care of the government, and, finally, to say a word or two about the challenge that now faces the committee to which this bill will be referred.

Certainly, so far as we on this side are concerned, we are prepared to refer the bill to the designated standing committee. Yesterday the Leader of the Government suggested that the bill be referred to Committee of the Whole, with the implication—at least it was an inference which I drew—that the single witness would be the Minister of National Health and Welfare.

An Hon. Senator: Incredible!

Senator MacEachen: In the present circumstances, and in light of the comments made by Senator Marsden, it appears to us that it would be better in these circumstances to have the standing committee receive the bill and to begin its work as quickly as possible, but I will say a word or two about that later.

Honourable senators, it is unnecessary to repeat in detail the concerns that have been expressed about this present legislation. It is to be noted that all of the 40 groups expert in the field of child care appearing before the legislative committee in the House of Commons opposed this legislation. Not a single organization that appeared before that committee had a good word to say about the legislation or recommended its endorsation. That is unusual, and it may be that one of the challenges facing the standing committee of the Senate will be to find some organizations in the country that might present a balanced picture with respect to this legislation, because at present the balance of witnesses heard in the House of Commons committee is totally against the legislation. There are reasons for that, and it is not surprising that one of the principal reasons is the inadequacy of the number of child care spaces being provided by the legislation. It is estimated to be 200,000 over a period of seven years. There are at present 240,000 licensed day care places in Canada. It is also estimated that there are parents who spend at least 20 hours a week either at work or in study with almost two million children in their care. Some authorities say that we will need over one million new spaces. I have no expertise on that subject and, therefore, only recite the fact.

● (1530)

The government proposes to add to the quantum of child care places by a total of 200,000 over a seven-year period—that is the boost period—and, after that, there is no assurance that any further additions will be made. It is not surprising that the argument is advanced that this is inadequate. In fact, no matter what legislation is introduced by governments, it is usually, in the minds of some, regarded as inadequate.

I must say I was surprised to discover that there was testimony before the legislative committee, offered by the chairman of the National Action Committee on the Status of Women, which charged that the present legislation, Bill C-144, is actually regressive. It has been alleged that, had the government done nothing—in other words, had the government not introduced Bill C-144—the plight of working families would have improved when compared with what will occur under this legislation. That was the testimony offered by the National Action Committee on the Status of Women. It claimed that the bill would actually slow the growth in child care spaces. That is a serious allegation that I hope this committee, in its report to the Senate, will be able to clarify.

Ms. Lynn Kaye, president of the National Action Committee, testified:

> Rather than improve the availability of care, the bill's modest intention is to deliver a lower growth rate than we can anticipate under present conditions.

She estimated that, if present growth were maintained, at least 300,000 new spaces would be created over the next seven years instead of the 200,000 that this government is limiting itself to creating. Furthermore, there is no guarantee that the provinces will actually create new spaces. I believe that Senator Robertson, in her comments yesterday, underlined the restraints or constraints on certain provinces that might impede their creation of new child care spaces.

So the evidence from the president of the National Action Committee on the Status of Women is rather staggering. Perhaps Senator Robertson can deal effectively with the allegation; but what she cannot deal effectively with, because she gave the store away yesterday, is that the bill fails to create national standards. That had been one of the objectives of Canadian policy in so many fields that it is regrettable that in this field of child care the bill provides that the individual agreements negotiated with the provinces will contain an appendix specifying the standards established by the province for child care services and how the province intends to enforce these standards.

Two observations can be made, honourable senators. One is that, far from setting any minimum national standard, the bill does not even mention what specific areas should be subject to standards. To my knowledge, there does not seem to be any adequate provision in the bill to obligate provinces to provide standards that would be reasonably adequate and similar for all of the children of Canada, regardless of their location in the country. There is no doubt that that has attracted the attention of various persons throughout the country. For example, I recently received two telegrams from persons in Cape Breton. On Friday I received a telegram from Carol Gibson-Kennedy, which reads:

> Request permission to appear before subcommittee to express child care concerns of rural Cape Breton. Request to be heard by House denied.

Presumably there are concerns there that have to be addressed.

I have a further telegram, which states:

> Please hear Cape Breton Childcare Coalition—The House wouldn't. We see flaws in the bill that are especially damaging to our region.

So, honourable senators, it is acknowledged, and witnesses will want to comment on it, that, as Senator Marsden pointed out, there are no national standards contained in this legislation.

So the concerns are discernible: firstly, the spaces to be created are inadequate in comparison with the demand. Secondly, rather than add to the growth of child care places, the bill itself will slow that growth. Finally, there are no national standards. I consider the latter two as serious allegations that ought to be examined by the commitee.

What is the committee to do? The bill came to the Senate yesterday. It will get second reading expeditiously today and go to the committee. The committee is expected to discharge a responsibility on behalf of the Senate. Of course, the Prime Minister has made it clear that he wants this bill not today but last week, because this morning, I am told, he was repeating his unjustified charge that the Senate is obstructing the child care legislation.

Senator Robichaud: That is ridiculous!

Senator MacEachen: Of course, one might be worried if people paid a lot of attention to the Prime Minister. The fact is that most people discount his comments as being more comic than serious—and this is one of them. But the suggestion has been that the Senate must meet an unstated deadline and pass the legislation. What is the deadline? Is it tomorrow?

Senator Barootes: Tomorrow will do.

Senator MacEachen: Senator Barootes says that tomorrow will do. May I ask him what he expects the committee to do with the 34 requests that are now before it from individuals and organizations wishing to be heard?

Senator Frith: Tell him to speak to the Prime Minister.

● (1540)

Senator MacEachen: What will members of the committee do with the 34 requests? Will they dismiss those requests as being trivial and do nothing about them? Honourable senators, I do not intend to read them all, but I have a list of representative persons and organizations asking to be heard on Bill C-144. I think that the members of the committee must pay some attention to these 34 requests, which are so diversified and so characteristic of the concerns that have been expressed about the day care legislation.

Senator Marsden has said that not all of the groups who asked to appear before the committee of the other place were actually heard. I believe that is true. My understanding is that half of those who asked to appear were not permitted to do so, and those who did appear were put through the pressure cooker described by Senator Marsden—their presentations were compressed into a short period of time and their ability to express their concerns and be questioned was limited.

Can the Senate do something to repair this situation? I hope it can. Today the government house leader in the other place dropped a hint that might be useful to the Senate. When asked

how much time the Senate had for Bill C-144, he is reported to have said, "All this week and maybe next week—who knows?" We do not know, but we do know one thing: The Senate and its committee are challenged to address the problem of those persons and organizations who wish to appear to express their concerns.

Honourable senators, I have here the list that has come to the committee; surely the committee chairman also has it. I also have a list of persons and organizations who have called my office. Those who sent letters requesting an appearance were: The Yukon Child Care Association; the British Columbia Pre-School Teachers' Association; the Canadian Day Care Advocacy Association; the Coalition for Better Day Care; the St. Joseph's Children's Centre, Nova Scotia; the York University Student Centre Childcare Committee; and the Canadian Association of Toy Libraries and Parent Resource Centres. Those who sent telegrams requesting an appearance before the committee were: The Cape Breton Child Care Coalition; Carol Gibson of Sydney, Nova Scotia; Cathy Spencer, also of Sydney; the Child Care Advocacy of Nova Scotia and CUPE Local 3016 of Halifax.

Honourable senators, it is noteworthy, as was mentioned by Senator Marsden, that of the witnesses heard by the House of Commons there were none from the Atlantic provinces, there were none from the Yukon and Northwest Territories, there were none from Saskatchewan, and there was only one from each of the other western provinces. The majority of witnesses came from central Canada and were, for the most part, representatives of national organizations. Surely one of the things the committee must do now is to give a voice to the regions. Surely we must hear from the Atlantic provinces. It should not be difficult to get these witnesses here, because we know who they are—they are all listed. We know where they live; they can be called today. Surely we can tell them, where necessary, that we can pay their travelling expenses, and in this way we will hear representations from the regions of Canada. I believe that is the challenge facing the committee. It has a big job to do. It will have our support in getting down to work immediately, in scheduling its meetings and in seeing how much it can do to meet the demand that has been put upon it by those citizens and groups that have made this appeal to be heard.

Honourable senators, that is what I have to say on the committee hearings. If I may, I shall ask Senator Robertson to provide some information to me when she closes the debate. One point she made in her statement yesterday was that in the course of the legislative process substantive amendments had been made to Bill C-144. I accept that as a truthful statement, but I should like her, if not now, perhaps later, to provide us with a list of the substantive amendments and the technical amendments that were made in the course of the legislative process.

Basically, the child care proposal is a familiar Canadian program, because it is to be jointly shared by the provinces and the federal government. It is like the Canada Assistance Plan. In fact, some of the witnesses before the committee asked, "Why go into this when you can do it better with the existing Canada Assistance Plan?" Surely that is something we will be asking and hearing about in the committee. Why not continue with the Canada Assistance Plan? It has stood the test of time and, in a sense, it is reconfirmed in the legislation before us. It is not to debate that point, however, that I refer to the Canada Assistance Plan. I wish to ask Senator Robertson if she can throw some light on her statement in which she said that in the past the federal expenditures on child care services under the Canada Assistance Plan amounted to only 35 per cent. How did that come about? Were some amendments to the Canada Assistance Plan necessary in order to increase the federal share to its normal amount, namely, 50 per cent?

Finally, honourable senators, there is another point Senator Robertson made to which I should like to refer, and that is that the bill which is now before us is retroactive to April of 1988. She made the argument that, if this bill failed to pass and a similar bill had to be introduced in a new Parliament, provinces that had made commitments in the expectation of the passage of this bill would not be reimbursed the federal share. I should like to refer to the relevant paragraphs of her speech, which state:

> . . . to delay this bill would also penalize those provinces that have made the commitment in the current fiscal year to expand and to enrich their licensed child care facilities in the expectation that they would qualify for the 75 per cent sharing of capital costs and the more generous sharing of operating costs provided for in this bill.
>
> That agreement is retroactive to April 1 of this year. Therefore, if it does not pass, they will lose the money they have already spent.

My question is: What amounts of money are involved, what provinces are involved, and what are the number of affected existing child care facilities? The senator referred to only enriching licensed child care facilities rather than creating new ones.

● (1550)

Honourable senators, I come to my final point. The Prime Minister speaks as if new child care spaces would be created tomorrow if this bill were given Royal Assent tonight, as if, tomorrow, working mothers would be able to go to child care centres which would suddenly have mushroomed in the country overnight. Those are his words.

Senator Frith: A joke!

Senator MacEachen: I take a more serious view, and ask the senator: Can she give me an idea of what agreements are about to be signed, or have been signed, under this bill, and with which provinces, and how many child care spaces are covered under these agreements? For example, in Nova Scotia is it expected that the first new child care space will be created, if this bill is passed immediately, by some miraculous prime ministerial intervention, at six o'clock this evening?

Honourable senators, it is obvious that this is an extremely important piece of legislation. It ought to receive careful consideration by the Senate, and it is for that reason that we

are ensuring that the bill is referred to committee at once and that the committee will begin its work at once. We shall assess the committee's progress in determining the future treatment of the bill.

Some Hon. Senators: Hear, hear!

Hon. Brenda M. Robertson: Honourable senators—

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

Senator Robertson: Honourable senators, I have a lot of questions to answer this afternoon and I hope that I can keep track of them. If I may, I shall start with Senator MacEachen's questions and work backward, and we shall see how we make out.

I listened with great interest to the speeches of Senator Marsden and Senator MacEachen this afternoon. There is no doubt that this child care legislation is extremely important to all Canadians and that most Canadians are very interested in it. I certainly do not get the same interpretation from the comments by the Prime Minister as Senator MacEachen does. The Prime Minister is the father of four children. He understands very well the requirements for children across the country, and he is most anxious for the legislation to be in place so that planning and work can progress toward the fulfilment of our obligations as they pertain to this legislation. I doubt very much that any serious person would expect at six o'clock this evening or at six o'clock three months from now we could identify specific spaces as a result of this legislation.

Senator MacEachen: Not six months from now?

Senator Robertson: Oh, yes, six months from now, but not at six o'clock this evening, and I doubt very much that we could do so at six o'clock three months from now.

Senator MacEachen: That's good enough.

Senator Robertson: But in a very few months from now—

Senator MacEachen: Tell that to the Prime Minister!

Senator Robertson: —we will be able to identify those spaces. I hope that before the afternoon is completed I shall be able to advise the chamber of the preliminary work that has been done by the provinces—

Senator Frith: Do so at six o'clock six months from now!

Senator Robertson: —in anticipation of this legislation to expand their spaces.

Honourable senators, I was a bit amused, although perhaps one should not be amused, given the seriousness of a piece of legislation such as this, that Senator MacEachen was shocked that the views of 40 groups appearing before the committee in the other place were all negative. It reminded me of all the people we had paraded in here over the last year on the Meech Lake Accord. There was not one positive witness while I was in the chamber, although I generally left because I did not like the exercise. I did not hear too many positive witnesses on the Meech Lake Accord—

Senator Phillips: There was Pickersgill.

Senator Robertson: —although every Wednesday afternoon the witnesses would come forward.

Let me tell Senator MacEachen what happened in the other place. The government, in its generosity, said, through its members on the committee, to the opposition members, "You may choose all of the witnesses." The government did not choose a single witness.

Senator Frith: Or you could not find one.

Senator Robertson: There were all kinds of witnesses, and Senator Frith need not worry about that.

Senator Frith: I know!

Senator Robertson: Do not try to distract me from my point in relation to Senator MacEachen.

Senator Frith: From your generosity!

Senator Robertson: I say to Senator MacEachen that it sounds to me as though the Atlantic people are pretty satisfied. He says he has found a few who are not; so why were your Liberal members on the committee not asking those people from the Atlantic provinces to come and appear before the committee?

Senator Frith: Because they were told they were not allowed to appear.

Senator MacEachen: They asked.

Senator Robertson: They never did!

Senator Frith: They asked and they were told they couldn't.

Senator MacEachen: They tried.

Senator Frith: Give her the telegram. They were told they couldn't appear.

Senator Robertson: You can give me the telegram, but I can tell you that the Liberal members in the other place chose every single witness. We did not choose one—not one!

Senator Frith: Why not? Because you couldn't find any, that's why.

Senator Robertson: That is not true! It was an act of generosity.

Senator Frith: I see. To quote you, "I am more than a bit amused"!

Senator Robertson: Are you? I don't know whether you should be amused. You know, I was not very amused with regard to Meech Lake. I knew we could find lots of positive witnesses, but I did not see many coming in here.

Senator Frith: Why didn't you go and find them?

Senator Sinclair: Why didn't you ask them to appear?

Senator Robertson: Really!

Senator Frith: Yes, "really"!

Senator Robertson: You just wanted all—

Senator Frith: The item is still on the order paper.

Senator Robertson: —negative witnesses.

Senator Stewart: You had representatives on the steering committee and they didn't ask for them.

Senator Robertson: Now, really!

Senator Frith: Well, you didn't.

Senator Robertson: Isn't it interesting?

Senator Frith: Another act of generosity!

Senator Robertson: You want a balanced hearing, but people have to ask to have a balanced hearing.

Senator Stewart: You could have put forward your views.

Senator Robertson: It does not sound very sensible at all.

Senator Sinclair: You could have asked witnesses to come forward.

Senator Robertson: My, oh my, oh my!

Senator Sinclair: You had lots of opportunity.

Some Hon. Senators: Oh, oh!

Senator Robertson: Anyway, gentlemen, I am not surprised that there were no—

An Hon. Senator: Order!

Senator Robertson: Your Honour, do I still have the floor?

The Hon. the Speaker *pro tempore:* Yes.

Senator Robertson: Thank you very much.

I am not at all surprised that we did not have positive witnesses if the opposition chose them all. I think it was very generous of the government to give them that opportunity. I really do. I think it was an outstanding act of generosity.

Senator Frith: Next joke!

Senator Robertson: "Next joke", indeed! There is not much to joke about in this child care legislation, senator. I don't know whether you are a grandfather, but I hope so, and I hope you have fond recollections.

Senator MacEachen also talked about the inadequate number of spaces that this legislation will provide. I think the honourable senator was referring to—and I was unable to write it all down—some statistics from Statistics Canada. Those statistics say that there are about 1.9 million children in Canada between the ages of zero and twelve years whose parents work or study at least 20 hours a week. Let me break the statistics down further. There are about 800,000 children under six years of age whose parents work or study at least 20 hours a week. It is a bit of a red herring to suggest that, because parents are working or studying 20 hours a week, we must have space for their children in day care. Saying that every one of those children requires a licensed day care space is like saying that everyone over 75 who is arthritic and who suffers other medical problems requires a nursing home bed. I would point out that the national average of beds allocated in nursing homes to senior citizens is approximately 6.5 per cent.

• (1600)

If I follow the argument correctly, it is that, while we have 240,000 licensed day care spaces in Canada, there are approximately two million Canadian children who need licensed day care because of adults working or studying at least 20 hours a week, therefore, this bill's goal of adding 200,000 licensed, subsidized spaces over the next seven years is totally inadequate to meet the demand. Honourable senators, I think that is the red herring that is being dragged around this chamber.

Honourable senators, the figure of two million children represents every single child in Canada under the age of fourteen whose parents or whose single parent is working for pay or who is a full-time student for at least 20 hours a week. About 850,000 of these children are under the age of six and the remainder are between the ages of six and thirteen. Considering these figures, can one truly jump to the conclusion that all of these children, or even all those under age six, require licensed day care? Clearly, honourable senators, the answer is no.

Children aged six and over are generally in school during the day. Many children under the age of six attend nursery school, kindergarten or receive forms of non-parental care that are not counted in the total of licensed day care spaces. Many others are being cared for by a neighbour or a relative in the parental home. Many parents are able to arrange their work schedules so that one of them is at home with the children while the other is earning. That is how my husband and I managed to raise our children. A number of parents do that. However, we are told by this bill's opponents that these so-called informal arrangements are forced on parents by the lack of licensed day care spaces. Again, I suggest, honourable senators, that that argument simply does not stand up to scrutiny.

I refer to the last study completed in this regard—a study we hope to repeat again in the coming year. Some of you will remember that in February of 1981 Statistics Canada surveyed Canadian families with respect to their child care arrangements. I know that things have changed since 1981. When we talk about making changes to the system, honourable senators, we have to do so on the basis of accurate information, before we carve too many laws in stone. In 1981 there were 1,133,000 children under the age of six receiving some form of non-parental care. Of those, just 127,000, or 11.2 per cent, were being cared for in licensed day care centres.

In that study parents were asked to list up to three reasons for their current child care arrangement. The parents of only 89,000 of these 1,133,000 children gave as one of those reasons that it was the only arrangement available or that they were not aware of alternatives.

Parents were also asked if they wanted to change their child care arrangements. The parents of only 165,000 preschool children answered yes to that question. Of those parents, when

asked to list up to three ways they might want to change the arrangement, parents of only 48,000 children gave as one of the desired changes an arrangement using a day care centre.

Honourable senators, it will be most interesting to see the findings when this study is repeated again next year.

You cannot simply say that, because there are 1.9 million children whose parents work or study at least 20 hours of the week, they all need day care spaces. I cannot buy that argument at all, and I do not think the people of Canada will buy that argument either.

If I interpreted Senator MacEachen's question correctly, he asked what would happen after the booster period. Honourable senators, I explained that yesterday. The federal government has already entered into an agreement with the provinces to negotiate whatever they were receiving at the end of the seven years. I think they are adding $800 million a year, plus the cost of living. There is an agreement in place and, if the honourable senator wishes, I can give him the clause of the bill that identifies that particular coverage.

Senator MacEachen suggested that NAC called the legislation regressive and said that it would slow the growth in child care spaces as compared to the current rate of growth under CAP. Honourable senators, I do not know where that information comes from. In that regard, the leader of the NDP in the other place used the same argument as Senator MacEachen gave us this afternoon. He stated, as Senator MacEachen quoted, that if the government had done anything at all it would have provided for more spaces under this legislation. It was said that there are presently 240,000 child care spaces in Canada and that this legislation will add at least another 200,000 spaces. The leader of the NDP suggested—and that may be where NAC is getting its figures—that if we created an additional 200,000 spaces it would mean an increase of about 10 per cent a year, whereas he suggested that under the status quo or CAP we have seen a growth of 15 per cent.

Honourable senators, that sounds like a rather simplistic argument, but let me tell you what is wrong with it. The goal of this bill is to set up at least 200,000 licensed, subsidized spaces, not just licensed spaces. There are not, as was perhaps suggested by NAC and the leader of the NDP, 240,000 licensed, subsidized spaces; there are 160,000. From the beginning of time up until now, Canada has put in place 160,000 licensed, subsidized spaces, and the government is proposing to increase that to at least 360,000 over the next seven years.

That is the appropriate comparison, honourable senators.

● (1610)

Secondly, of the 15 per cent annual growth in licensed spaces between 1982 and 1987, which was referred to, just under 40 per cent was in commercial day care spaces, a form of child care some people want to see abolished. So only 60 per cent of those were created by what we consider the traditional form of CAP. This just changes the whole direction. It is an elementary principle of arithmetic, I suppose, that rates tend to decline as the base from which they are calculated increases. So, if there are 20,000 spaces at the outset, and if 20,000 spaces are added each year, the growth rate in the first year will be 100 per cent.

Senator Marsden: Would the honourable senator entertain a question? Surely the point here is that the Canada Assistance Plan is an open-ended system, whereas the proposed legislation puts a cap on it, and the question is not how many spaces there are, because, after all, we do not know how many there are precisely or how many there will be. The fact is that under the Canada Assistance Plan, if a province were to take up the available funds, many more spaces would be created. It seems to me that that is the point that is being made by the National Action Committee, by Senator MacEachen and by anyone else who has commented on the point.

So arguing over numbers becomes futile since it is highly speculative both regarding the current situation and the future situation. It is the principle of the bill that counts.

Senator Robertson: Thank you for that interjection.

An Hon. Senator: It was a question!

Senator Robertson: And for the question. I have information here that indicates that under CAP there was a decrease in spaces taken up by the provinces. I will provide that information to the honourable senator at the committee meeting.

CAP did not grow the way they thought it would grow. Any province can elect to stay in CAP; a province does not have to opt for this new arrangement. The provinces have a choice to opt for this legislation or to stay with what they currently have.

It is not difficult to dispel many of the concerns raised in all of the questions that have been asked.

Senator Frith: The committee can look into some of these questions.

Senator Robertson: I have a copy of the list of amendments. I will send that to the honourable senator. The amendments are substantial.

Senator MacEachen wanted to know the amount of money being made available to the provinces and how many spaces are affected. Currently there is no agreement, because the legislation has not been passed; however, I will get that information. Some of the provinces have been working on capital construction and working toward an increase in their spaces. I will not be able to give a number respecting those spaces until the agreement is signed, but those provinces will lose all of the moneys they have spent if this bill does not go through.

However, under the new form of Senate that we have, which Senator MacEachen refers to all the time, in which the days of prestudy have gone, and the Senate will get credit for everything it does—some of us do not require more recognition in our lives.

If prestudy of legislation had been allowed in this new Senate, all of these questions could have been answered. All of these questions could have been dealt with had the legislation been prestudied by the Senate, and we would not now be rushed in the last few days. If Senator MacEachen wants to

refer this bill to the committee and have the committee spend two months considering it, after the election or before the election, that is his prerogative. However, I can tell the honourable senator that our information is that people are paying increased attention not only to what Prime Minister Mulroney is saying but also to what goes on in this chamber.

Some Hon. Senators: Hear, hear!

Senator Robertson: I am not one to pat myself on the back. Many of the comments I have received are not as congratulatory as some honourable senators might think.

I have taken up a great deal of time and there is a celebration planned to welcome our new senators. I have answers to dozens and dozens of questions. I will take the answers to the committee, but, believe me, the arguments of honourable senators opposite are straw arguments. I do have information to support the statements I made yesterday. I do have information to support the answers to the questions that have been put to me. I appreciate honourable senators' concerns.

Senator Frith: And ones we have not even thought of yet!

Senator Robertson: All kinds of questions can be raised, but, if honourable senators sat down quietly and looked at the bill—

Senator Doody: In a non-partisan fashion.

Senator Robertson: —in a non-partisan fashion, as one would do in prestudy—

Senator Frith: Soberly and with second thought!

Senator Robertson: —then I do not think honourable senators would have raised all of the questions they have raised today.

The Honourable Senator Denis asked for a chronology of events. I can supply him with that. This chronology sets out all the work that has been done over the past four years. Senator Marsden referred to this yesterday.

My parting note is that those of us who have worked on federal-provincial arrangements over the years know how long it takes to come to an agreement. I think it is amazing we have come this far in four years. I can remember long hours, weeks, months and years of negotiations that never got off the ground.

Honourable senators, I will deal with the other questions when this bill is referred to committee.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I agree that many of these questions should be raised in committee, but I would ask Senator Robertson, for the benefit of the committee, to check the source of her statement about the opposition choosing all the witnesses who appeared before the committee of the other place. We have checked and we have been told that the process for selecting witnesses to appear before the legislative committee on Bill C-144 was done from a master list submitted by all three parties, and that John Bosley was active in the process of selecting and rejecting names.

Senator Robertson: I will check my information. My information is that they gave complete leeway to the opposition parties. They said: "You choose your witnesses because time is so short." That is easily checked.

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?

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

[*Translation*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Arthur Tremblay, with leave of the Senate and notwithstanding rule 45(1)(*a*), I moved:

> That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit while the Senate is sitting on Thursday and Friday next, 29th and 30th September, 1988, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

CONSTITUTION ACT, 1867

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Molgat, seconded by the Honourable Senator Corbin, for the second reading of the Bill S-20, An Act to amend the Constitution Act, 1867 (Speaker of the Senate).—(*Honourable Senator Kelly*).

Hon. Martial Asselin: Honourable senators, it was my intention to take Senator Kelly's place but because the foreign affairs committee will be meeting and I must be there I ask that my intervention be put off until tomorrow.

[*English*]

Order stands in name of Senator Asselin.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition), 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 now, and that rule 76(4) be suspended in relation thereto.

Motion agreed to.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I ask that all remaining orders stand.

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

APPENDIX

(See p. 4503)

PATENT ACT

BILL TO AMEND—REPORT OF STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

WEDNESDAY, September 28, 1988

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

THIRTY-THIRD REPORT

Your Committee, to which was referred the Bill S-15, An Act to amend the Patent Act, has, in obedience to the Order of Reference of Tuesday, June 21, 1988, examined the said Bill and now reports the same without amendment but with the following comments:

The Committee tabled an interim report on Bill S-15 (Thirty-Second Report) in the Senate on Wednesday, September 14, 1988 in which it presented background information on the Bill along with some preliminary observations on drug prices. Since that time, the Committee has heard testimony from Dr. Harry Eastman, the Chairman of the Patented Medicine Prices Review Board and members of the Board's staff. Also, the Committee has had access to additional information on drug prices from the Minister of Health of the Province of Manitoba and Green Shield Prepaid Services Inc.

INTRODUCTION

Bill S-15 would amend certain provisions of the *Patent Act* relating to the Patented Medicine Prices Review Board (the Board). Price increases occurring after June 27, 1986 would be subject to the scrutiny of the Board. The Bill would require the Board to examine the prices at which patented medicines are sold in Canada on an annual basis and to make a determination as to whether those prices are excessive. Prices would automatically be excessive whenever their rate of increase exceeded that of the Consumer Price Index (CPI).

Where a price is excessive, the Bill would require the Board to take remedial action. It could remove a patentee's market exclusivity or order the price to be reduced to a level that is not excessive. In addition, the Board could limit future price increases in order to recoup a price overcharge.

THE DETERMINATION OF EXCESSIVE PRICE

Under Bill S-15, the CPI would be the governing factor in matters relating to price. The *Patent Act* (the Act), however, requires the Board, when determining whether a price is excessive, to take a number of factors into consideration. In addition to the CPI, the Board will look at prices during the preceding five years, as well as prices of medicines in the same therapeutic class and in other countries. Although the Board must consider all of these factors, the weight that it gives to each of them is within the discretion of the Board.

While the *Patent Act* amendments (Bill C-22) were passed by Parliament in November 1987, it was not until July 1988 that the Board issued guidelines setting out criteria for the review of prices. With regard to patented medicines first marketed in Canada before December 7, 1987, the date on which the Board was given statutory authority, the guidelines provide that the Board will give the greatest weight to the Consumer Price Index. In doing so, it will compare the price of a patented medicine at the time of a review with the benchmark price (the price on December 7, 1987) of the medicine adjusted for the cumulative change in the CPI, the latter being the CPI-adjusted price. The current price of a medicine will be presumed to be excessive, if it is greater than the CPI-adjusted price or, alternatively, not excessive where it is less than that price. The guidelines note that the presumption can be rebutted by "significant evidence to the contrary".

For a patented medicine first marketed in Canada on or after December 7, 1987, the Board will establish a benchmark price on the basis of the median price of the medicine in the countries referred to in the regulations (Federal Republic of Germany, France, Italy, Sweden, Switzerland, United Kingdom

and United States) and the therapeutically-adjusted price as determined by the Board. Where the initial price of a medicine does not exceed the lesser of the median international price and the therapeutically-adjusted price, the price will be presumed to be not excessive. This presumption can also be rebutted by significant evidence to the contrary. The Committee supports the Board's use of a median international price, rather than an average price, as it will reduce the importance of extremely high international prices in establishing a benchmark for Canada.

The Committee notes that the Board's approach to the determination of excessive price differs from that found in Bill S-15 in two essential respects. First, with regard to the benchmark date from which price levels are to be measured and second, with respect to the role that the CPI will play as a pricing factor. In relation to the former, the Board has adopted December 7, 1987 rather than June 27, 1986 as the benchmark date; while, in connection with the latter, a price that exceeds the CPI-adjusted price will create a rebuttable presumption of excessiveness rather than a definitive determination of excessive pricing upon which the Board is required to act.

In commenting on the respective benchmark dates, Dr. Eastman stated that December 7, 1987 was chosen because it is the date on which the provisions of the *Patent Act* amendments relating to the Board came into force. The Committee, however, prefers the adoption of June 27, 1986, the date relevant to the determination of the various periods of market exclusivity to be enjoyed by patentees, as the benchmark date for judging excessive drug prices. This preference has two bases. First, it would bring a larger number of patented medicines within the purview of the CPI criterion. Second, it would ensure that this criterion applies to a greater number of price levels; that is, all those that would come into effect after June 27, 1986 -- a date almost eighteen months earlier than the one adopted by the Board.

With regard to the role of the CPI as a factor in determining excessive price, Dr. Eastman noted that, in the context of the current legislative mandate, it would not be possible for the Board to fetter its discretion by considering only one factor. The Board, however, has decided that it is reasonable to place the greatest weight on the Consumer Price Index in assessing the prices of patented medicines first marketed in Canada prior to December 7, 1987.

The Committee is encouraged by the Board's adoption of pricing guidelines which give "first among equals status" to the Consumer Price Index factor in assessing medicines marketed prior to December 7, 1987. By assigning the greatest weight to this factor and by creating the presumption that a price will be excessive if it exceeds the CPI-adjusted price, the Board has rightfully placed this factor at the forefront.

Despite the willingness of the Board to give prominence to the CPI as a pricing factor, the Committee feels that more should be done. We, therefore, strongly endorse the provision of Bill S-15 that would make the CPI the sole factor in the determination of excessive prices. This provision merely puts in legislative form the statements of the Minister of Consumer and Corporate Affairs regarding the mandate of the Board and the Pharmaceutical Manufacturers Association of Canada's understanding that price increases will be kept in line with the rate of inflation.

The Committee also supports the provision of the Bill that would require the Board to remove a patentee's market exclusivity or order a price reduction where a price has been found to be excessive. In the Committee's opinion, this would ensure that some action would be taken against an offending patentee.

DRUG PRICING

Since the tabling of the Committee's interim report on Bill S-15, no new evidence has come to our attention to dispute the conclusions in that report. It is clear to us that drug prices are continuing to rise at a pace which exceeds the rate of inflation.

In addition to the material previously at our disposal, the Committee received information from the Manitoba Minister of Health. In that province, expenditures on drugs have been increasing at about 15% per year, due to increases in prices and greater utilization of drugs. While it is not possible to disentangle the relative importance of these two factors, both the growth in expenditures on drugs in Manitoba and the pricing experience is not out of line with what we have seen in other provinces.

One concern expressed by the Manitoba Minister of Health is the fact that the Board, under existing legislation and under Bill S-15, has direct control over only patented drugs which account for about 25% of the market in that province. The evidence heard by this Committee and others in the past two years indicates that the pricing of generic drugs is subject to considerable competitive pressure and is constrained by the pricing of brand-name drugs. An effective means of controlling patented drug prices, therefore, is also likely to control generic drug prices.

The Committee also received some additional information from Green Shield Prepaid Services Inc. regarding the pricing of drugs covered by its various

insurance plans. While this information covers a large number of drugs, it includes only a small number of companies. Accordingly, we interpret it cautiously.

At the very least, these new data indicate that not all brand-name drug manufacturers have taken the announcements of their association to heart. Officers of the Pharmaceutical Manufacturers Association of Canada have stated on numerous occasions that they expect price increases to be limited to the rate of inflation. Yet through 1987 and 1988, some of these firms have increased their prices at accelerating rates. In January of this year, drug price increases of our sample of just over 260 drugs exceeded the rate of inflation by over eleven percentage points. More disturbing is the discovery that 18 drugs, 7% of the sample, had price increases of over 50% in January. Ten of these drugs more than doubled in price in that month.

In conclusion, several troublesome aspects of drug pricing are not yet resolved to the Committee's satisfaction. On average, drug prices continue to increase at rates faster than inflation. The prices charged for some individual drugs are increasing at extremely high rates. Finally, the benchmark system of prices chosen by the Board is not consistent with the retrospective nature of Bill C-22 and is insufficient to deal with the extreme price increases that we have observed for some drugs in the past few years. It is the view of the Committee that Bill S-15 provides a workable and reliable mechanism to deal with these pricing concerns.

Respectfully Submitted,

IAN SINCLAIR
Chairman

THE SENATE

Thursday, September 29, 1988

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

Prayers.

[*Translation*]

BROADCASTING BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-136, respecting broadcasting and to amend certain acts in relation thereto and in relation to radiocommunication.

Bill read first time.

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

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

[*English*]

UNEMPLOYMENT INSURANCE ACT, 1971

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-158, to amend the Unemployment Insurance Act, 1971.

Bill read first time.

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

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

PRIVILEGE

Hon. Charles McElman: Honourable senators, at this point may I speak to what I consider to be a matter of privilege? In this morning's issue of *The Ottawa Citizen* there is an article that appears under the cutline "Senator's travel can't be verified: airlines".

In it the writer suggests that the Senate has been unable to provide the two national airlines with enough information to obtain confirmation of the facts that it is seeking. The writer interviewed the Honourable Lowell Murray, the Leader of the Government in the Senate, who, in reply, said that he could not accept that such a situation existed.

On behalf of the subcommittee of the Internal Economy Committee, of which I have acted as chairman, I should simply like to state that Senator Murray is quite correct; the airlines have indicated to the subcommittee staff that, if any of the three factors involved—that is, ticket numbers, dates, names and so on—are presented to them, although it will take a longer time if we are only dealing with dates, for example, rather than ticket numbers, indeed, as Senator Murray has suggested, the national airlines can provide the information that is required by the Senate.

NOBEL PEACE PRIZE

RECOGNITION OF UNITED NATIONS PEACEKEEPING FORCES

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): If I may, I shall take just a moment of the time of honourable senators to draw to their attention the announcement earlier today by the Nobel Committee in Oslo, Norway, naming United Nations peacekeeping forces around the world as winners of the 1988 Nobel Peace Prize.

Hon. Senators: Hear, hear!

Senator Murray: They say that the awarding of the Nobel Peace Prize to the United Nations peacekeeping forces must be a source of pride to all Canadians. Canadians are proud of the recognized expertise, professionalism and dedication of the approximately 80,000 men and women of our armed forces who have served in various U.N. peacekeeping operations over the years.

Hon. Senators: Hear, hear!

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-SIXTH REPORT OF COMMITTEE PRESENTED

Hon. Roméo LeBlanc, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, September 29, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTY-SIXTH REPORT

Your Committee makes the following recommendations:

1. Franking Privileges by Senators

Retain present practice as described in Canada Post Corporation Act, S.C., 29-30 Eliz. II, c.54, s.34(2)(b), s.34(4). If it meets the test of first, second and third

class mail and is not a parcel, the Postmaster is to send it.

2. Postal Services available to Senators

Retain current practice for items of Senate business.

3. Making Householder Mailings Available to Senators

Retain current practice of not permitting such mailing.

4. Printing Guidelines

Establish a volumetric limit of 40,000 impressions per year per Senator. Senators in need of a greater amount may make requests to the Main Committee. In addition, declare the following requests unacceptable:

a) Material unrelated to activities of the Senate of Canada.

b) Material of a partisan political nature such as:

i) solicitations of party membership;

ii) invitations to attend national or constituency partisan meeting or conventions;

iii) requests for monetary contributions not clearly in the tax deduction provisions for political donations;

iv) federal, provincial or municipal election campaign material such as speeches, enumerators' lists, party or constituency workers' lists, poll activities, requests for re-election support, etc.

v) publications normally made available from party headquarters; and

vi) party leadership election campaign material.

c) Reproduction on letterhead such as party stationery, Senators' stationery with party logos, etc.

d) Reproduction of parliamentary publications in their entirety which are available from the Joint Parliamentary Distribution Office, other government departments or commercial sources.

e) Photocopying of publications protected by copyright for public distribution where written approval has not been obtained from the author or publisher.

5. Newspapers and Periodicals for Individual Use by Senators

Senators may order subscriptions and pay for them from their $10,000 discretionary allowance. The newspapers and periodicals subscribed to must be delivered to the Senator's Ottawa office.

Respectfully submitted,

ROMÉO LEBLANC
Deputy Chairman

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

On motion of Senator LeBlanc (Beauséjour), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

INTERNATIONAL CENTRE FOR HUMAN RIGHTS AND DEMOCRATIC DEVELOPMENT BILL

LEAVE GRANTED TO PRESENT REPORT OF COMMITTEE LATER THIS DAY

Hon. John B. Stewart: Honourable senators, I ask for leave to revert to Reports of Committees later this afternoon to present the report of the Standing Senate Committee on Foreign Affairs on Bill C-147.

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

Hon. Senators: Agreed.

ADJOURNMENT

Hon. C. William Doody (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 45(1)(*g*), moved:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Friday, 30th September, 1988, at ten o'clock in the forenoon.

Motion agreed to.

• (1410)

QUESTION PERIOD

SPORT

XXIV OLYMPIAD—BEN JOHNSON—STRIPPING OF 100-METRE SPRINT GOLD MEDAL AND DISQUALIFICATION—ESTABLISHMENT OF INDEPENDENT INVESTIGATION—PROPRIETY OF LIFE SUSPENSION

Hon. Raymond J. Perrault: Honourable senators, news reports in recent hours suggest that the government, in an uncharacteristic manner, may be yielding to plain old common sense by appointing a special investigatory committee to look into all aspects of the Ben Johnson affair.

I see Senator Flynn shaking his head. Thank God he never went to the bench! As a judge, after a preliminary hearing he would have sentenced the person charged with the offence to life imprisonment, without any right of appeal.

Hon. C. William Doody (Deputy Leader of the Government): Order! Nobody is talking about Senator Flynn.

Hon. Jacques Flynn: On a point of order, I have never been as irresponsible as Senator Perrault.

Senator Perrault: Every suggestion made about extending basic Canadian justice to Ben Johnson has been met with opposition on the part of Senator Flynn.

Senator Flynn: Try to make sense instead of noise!

Senator Perrault: If you sat down and listened more, you would be a possessor of marvelous amounts of wisdom.

These reports in recent hours suggest that there is going to be a special committee to investigate all aspects of the Ben Johnson affair, the very proposal that the Leader of the Government in the Senate has been resisting for the past two days, joined by that cabal of supporters on the other side of the house.

Senator Flynn: That is false!

Senator Perrault: Indeed, a spokesman for the Minister of State for Youth, Fitness and Amateur Sport, after a discussion yesterday, said, "In thinking it over, perhaps we should call in an outside agency to conduct the investigation, and not have an in-house investigation by the Canadian Track and Field Association or the Olympic Committee," precisely the position taken by this party in the house.

My question is this: Mr. Minister, are you about to tear asunder our hopes or will there in fact be an independent investigation of all aspects of the Johnson affair by an outside committee, or is this just a nefarious rumour?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, first, I must observe that the Honourable Senator Perrault, for the third time this week, has implied that there was some lack of due process in what happened in Seoul, Korea. I must, with respect, take exception to that statement.

The evidence is that due process was respected. I repeat that the medical findings have not been challenged. I repeat for the third time that the Canadian delegation had every opportunity, and exercised the opportunity, to provide alternative explanations, scenarios and hypotheses to the Olympic authorities. This, after discussions with the athlete in question. So, due process was respected.

Secondly, so far as an inquiry is concerned, the honourable senator alleges that I have been resisting such a step. Had he done more listening and less talking yesterday, or had he taken the trouble to review our exchange in *Hansard* of yesterday, he would find that on page 4505 I said:

> . . . we do not exclude the possibility of a general inquiry into the problem.

That is still our position.

Senator Perrault: Honourable senators, I have in my hand a copy of the minister's press release. It was issued by Jean-Paul Charbonneau, and the Minister of State for Youth, Fitness and Amateur Sport, the Honourable Jean Charest, authored this press release.

The headline emblazons the words, "Ben Johnson Suspended For Life," not "Ben Johnson Suspended Until Appeal Heard," not "Ben Johnson Suspended Until All Facts Are Known," or not "Ben Johnson Suspended Pending An Inquiry." The Leader of the Government actually comes to us and tells us that due process of law has been observed. Yet Mr. Charest goes on to say in his release that all federal financial support to Ben Johnson, in accordance with our doping control program, is suspended for life.

[Senator Perrault.]

The point that we are trying to make is this: First, will that committee of investigation be established, as recent news reports have suggested? The Leader of the Government must know whether or not in fact that committee is going ahead if he is admitted into cabinet meetings.

Second, we question the propriety of sentencing any Canadian, regardless of the offence, until we know the full implications of the allegations against that person and until a full process of appeal has been accorded to that person.

The minister's news release was totally inappropriate. Quite properly, the minister is under criticism all across the country for having taken that precipitate action.

Senator Murray: Honourable senators, it is clear that Senator Perrault challenges the medical finding.

Senator Perrault: Not at all.

Senator Olson: No!

Senator Murray: It is equally clear that Senator Perrault challenges the unanimous decision of the Olympic authorities and the right of the Canadian Track and Field Association to conduct their investigation, having indicated his low esteem for them yesterday when he described them as "rabbits in the lettuce patch." Those views are on the record and can stay there.

Meanwhile, the government will take its responsibility. We do not at all exclude the possibility of an inquiry into the generality of the problem.

Senator Perrault: What the Leader of the Government has uttered about my alleged position is wrong, wrong, wrong! And the leader knows it! He is trying to muddy the waters.

Senator Flynn: Who is trying to muddy the waters?

Senator Perrault: He is hauling a red herring across the trail. He knows that we are simply standing up for the right of every Canadian to due process of law before that person is sentenced, sent to jail or condemned for life. He knows that. I know that he possesses better sensibilities than he has expressed in the reply which he has given to the members of this esteemed chamber.

It was inappropriate for the minister to move in the fashion in which he did. He is under criticism now from people in his own department, from coast to coast and from the media, and quite properly so.

We are asking whether or not the Prime Minister and members of the cabinet, including the Leader of the Government in the Senate as a member of the Privy Council, are prepared to announce today that there will be an independent investigation of all the circumstances surrounding this unfortunate Johnson affair to ensure that the guilty are apprehended, if there are guilty people to be apprehended. That is all we are saying. We do not need a distortion of the facts by the Leader of the Government.

Senator Flynn: What due process, when you speak of guilt?

Senator Perrault: You would have been a hanging judge!

Senator Flynn: You're a hanging judge!

Senator Murray: Honourable senators, I thought I heard the honourable senator say yesterday that the problem was broader than simply one athlete or one incident. That is the view of the government as well, which is why we are giving serious consideration to an inquiry into the generality of the problem, including the incident that the honourable senator and I have been talking about, the Johnson incident.

I ask the honourable senator to reflect on the duties of the Minister of State for Youth, Fitness and Amateur Sport—

Senator Flynn: There is no use in trying to have him reflect!

Senator Murray: Again, the medical finding has not been challenged. Again, the Olympic authorities, having heard the representations of the Canadian delegation, made their decision unanimously. At that point the Minister of State for Youth, Fitness and Amateur Sport had a decision to make. Does he accept the legitimacy, validity and authority of the decision that was made by the Olympic people or does he not? If he does, what action should he take on behalf of the Government of Canada? In my view, the minister acted in a way that is thoroughly commendable. Further, I have absolutely no doubt that the days ahead will vindicate his excellent judgment in the matter.

● (1420)

An Hon. Senator: Hear, hear!

Senator Perrault: You may applaud, but in today's *Journal de Montréal* there is a suggestion by the minister himself that he may have acted too soon or may have reacted in an inapproriate way.

Senator Flynn: That should not worry you!

Senator Perrault: It should not be this complicated to bring into being an independent investigation to determine the facts of this case, which are so troubling to so many Canadians. I will leave it at that.

Senator Flynn: Hot air!

Senator Perrault: Hanging judge, that's all you are!

Senator Flynn: You are the one speaking of people being guilty before they have been tried!

Senator Perrault: You and Judge Begbie!

UNITED NATIONS

IRAN-IRAQ BORDER PEACEKEEPING CONTINGENT—RETURN OF SOME CANADIAN MEMBERS

Hon. Gildas L. Molgat: Honourable senators, I have a question for the Leader of the Government in the Senate. First, let me say that I was pleased to hear his announcement today regarding the award to the Canadian Forces.

My question is about the Canadian Forces and their peacekeeping role on the Iran-Iraq border. I was disturbed by a news story that indicates that some of the members of the Canadian Forces monitoring the truce in the Iran-Iraq war will be coming home in the next few weeks. The story gives no explanation of why they are returning home. It is a vague story. It says that a:

> —spokesman for External Affairs Minister Joe Clark, said Thursday night it was not yet clear how many of the soldiers will be returning.
>
> It could be three or four. It could be a few dozen. It's a subject of discussion with the UN—

Can the minister tell us the reason for the return of these troops so quickly after their dispatch to that region?

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have no idea. I surmise that, since some of the troops were only involved in setting up communications systems, their continued presence is no longer necessary. However, that is pure conjecture on my part. I shall make inquiries of my colleague, the Minister of National Defence.

ORDER PAPER QUESTION

LAPRADE FUND—REQUEST FOR ANSWER

Hon. B. Alasdair Graham: Honourable senators, I have to take the unusual step of asking the Leader of the Government whether or not he will answer today, in the period designated "Delayed Answers to Questions", my questions with respect to the LaPrade Fund, which have been outstanding for 20 months and which have been repeated by me on several occasions.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, my friend, the Deputy Leader of the Government, has three delayed answers today, but that one is not among them.

Senator Frith: I have to admit that that is informative—it is not helpful, but it is informative!

Senator Steuart: But you are on the list!

Senator Frith: Not the short list but the long list. That has to be a classic!

Senator Graham: Honourable senators, I expressed my admiration for the Leader of the Government on Tuesday of this week when, indeed, the deputy leader was able to provide the answers to five questions that had been asked in the last couple of weeks. But what is causing the delay in answering these questions that were placed on the order paper on February 3, 1987? I have repeated my request for answers on several occasions—indeed, this year as recently as earlier this week on September 27, earlier on September 13 and earlier on June 21. Obviously, the minister must have some reason why these questions have not been answered over a period of 20 months. I hope that the minister and the government are not taking this series of serious questions lightly.

Senator Murray: Honourable senators, my recollection is—and I thought I had conveyed this to the honourable senator—that a reply was almost ready to be tabled but was withdrawn by the department because some of the figures needed to be updated. I believe my recollection is correct with regard to the

honourable senator's questions on the LaPrade Fund. In any case, I shall make inquiries and try to expedite the reply. We shall be sitting tomorrow, so I shall see what I can do.

Senator Graham: Can the Leader of the Government in the Senate tell us which department is responsible for providing this particular answer?

Senator Murray: I think there is more than one, but I believe it is the Department of Regional Industrial Expansion.

Senator Graham: I am looking at the assistant of the Leader of the Government in the Senate, who is in the gallery, with a view to finding out where the questions have been directed. Perhaps he could come down and send in a note that would enlighten the minister!

I hope there is nothing to hide with respect to the answer to my questions relating to the LaPrade Fund that has caused this highly unusual delay, which undoubtedly is establishing a record in this place—20 months.

Senator Murray: No, I do not think so.

Senator Graham: Would the Leader of the Government in the Senate give an undertaking to provide whatever information he has tomorrow morning when we sit?

Senator Murray: I do not have any information at the moment, but I shall see what I can obtain from colleagues.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have delayed answers to a number of questions.

There was a question on August 31 by Senator Stanbury, regarding External Affairs—Central America—Lack of Canadian Consular and Immigration Services. On September 20 there was a question by Senator Denis, regarding Canadian-United States Free Trade Agreement—Government Publicity Campaign. On September 21 there was a question by Senator Fairbairn, regarding National Defence—Pre-1968 Nerve Gas Testing at CFB Suffield, Alberta.

If honourable senators wish to have any of these answers read, I shall be happy to do so; otherwise I ask that they be printed as part of today's proceedings.

CANADA-UNITED STATES FREE TRADE AGREEMENT

GOVERNMENT PUBLICITY CAMPAIGN—STATUS DURING ELECTION—AVAILABILITY OF PUBLICATIONS IN OTHER LANGUAGES

Hon. Azellus Denis: I wonder whether my question to the Leader of the Government in the Senate, on the cost of publicity in favour of free trade, is included in the retarded answers on free trade.

Senator Frith: You are talking about the government! "Retarded" answer is the *mot juste*!

[Senator Murray.]

Senator Denis: We want to know how many millions of dollars of the taxpayers' money have been wasted in publicity—

Senator Murray: Don't jump to conclusions.

Senator Denis: —in order to try to sell our Canada to the United States.

Senator Perrault: Let's hear it.

Senator Frith: There is a really objective assessment.

Hon. C. William Doody (Deputy Leader of the Government): I certainly cannot accept the premise that Senator Denis has put forward. However, in the interests of non-partisan information, I am only too happy to provide the following information:

> $10 million has been allocated for the 87-88 fiscal year for seminars to prepare business people for new opportunities, for publications, and for advertising to support these important activities.
>
> The complete breakdown of the budget is not available. The planned communications program has not yet been completed and so it is not yet possible to account for all attendant actual costs. A detailed breakdown of costs will be given by the Minister of International Trade at a later date.
>
> With respect to questions on whether or not the government will continue to advertise after the writs are issued, no election call has been made, therefore, the question is hypothetical at this point.

Senator Frith: A masterpiece of Orwellian newspeak!

Senator Perrault: This show should be known as "Laugh In"!

Senator Denis: Is there any indication of the approximate price?

Senator Doody: I mentioned $10 million.

Senator Frith: Would you believe $40 million?

Senator Denis: Chicken feed; chicken feed!

EXTERNAL AFFAIRS

CENTRAL AMERICA—LACK OF CANADIAN CONSULAR AND IMMIGRATION SERVICES

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to a question asked in the Senate on August 31 last by the Honourable Richard J. Stanbury, regarding External Affairs—Central America—Lack of Canadian Consular and Immigration Services.

(*The answer follows:*)

> Since 1984, Visa Officers of the Department of External Affairs have been assigned to both Canadian Embassies in Central America, namely Guatemala City and San Jose, Costa Rica.

At the present time, five Visa Officers are at the two missions, including two in Guatemala (with responsibility also for immigration from Honduras), and three in San Jose (with responsibility for Costa Rica, Panama, Nicaragua, and El Salvador). Because of the increased workload in San Jose, one Visa Officer will be transferred from Guatemala to San Jose, together with responsibility for immigration processing in Honduras, in October 1988. The realignment of responsibilities and the redeployment of one position was decided on the basis of ongoing assessments of program requirements and staffing needs.

In addition to the five Canada-based Visa Officers at the two embassies, there are also two locally-engaged Immigration Program Officers. Despite heavy workload, staffing is adequate to cope with the demand. All Central American countries are visited on a regular basis by Canadian Visa Officers. All immigration workload processing targets were met in 1987, including refugee quotas, and all targets are again being met in 1988. The increased activity in Panama is transitory and is related to the introduction of a Canadian visitor visa requirement for Panamanians. The workload is expected to subside and resources already deployed are expected to be able to cope. Staffing needs are monitored on an ongoing basis and the assignment of incremental resources will be considerable should a legitimate need be identified.

NATIONAL DEFENCE

PRE-1968 NERVE GAS TESTING AT CFB SUFFIELD, ALBERTA—HEALTH OF INVOLVED PERSONNEL

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I have a delayed answer in response to two questions raised in the Senate on September 21 last by the Honourable Joyce Fairbairn, regarding National Defence—Pre-1968 Nerve Gas Testing at CFB Suffield, Alberta—Health of Involved Personnel.

(*The answer follows:*)

The Minister of National Defence has directed that all efforts be made to identify and locate individuals who participated in nerve agent testing prior to 1968. Follow-up medical examinations will be provided if necessary to ensure that there are no long-term side effects.

In addition, Mr. William Barton, Chairman of the Canadian Institute for International Peace and Security, has been conducting a review of research, development and training in chemical and biological defence within DND and the Canadian Forces.

• (1430)

BROADCASTING BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jean Bazin moved the second reading of Bill C-136, respecting broadcasting and to amend certain acts in relation thereto and in relation to radiocommunication.

He said: Honourable senators, it is well recognized that broadcasting is the most persuasive and pervasive cultural medium in Canada. It affects the heart of who we are: our being. I appreciate this opportunity to speak to you on the importance of this legislation and the reasons why this bill should be moved forward quickly.

I know that the power of broadcasting is well known to all senators. The power of radio and television to inform, to sell, to influence, to create "stars" or to provide people from coast to coast with a shared experience is enormous and unparalleled. While this bill seeks to carry the industry of broadcasting into the 21st century, it is doing so recognizing the central role it plays in the lives of most Canadians.

The average Canadian chooses to spend a great deal of time listening to radio and television. In just one week the typical Canadian listens to 18 hours of radio and watches 24 hours of television. It is therefore fundamentally important to our political and cultural sovereignty that our broadcasting system be an accurate reflection of who we are, reflect the values we share and depict how we live.

This legislation also deals with external pressures that are threatening the broadcasting system and endangering the ability of radio and television stations to continue to be strong and to play an important role.

The existing Broadcasting Act was passed in 1968. It is rooted in one technology, the use of over-the-air broadcasting transmitters. New technologies, which might not use traditional broadcasting frequencies, are making obsolete outdated definitions as to even what constitutes broadcasting. Already doubts have been raised as to whether some technologies are covered by the 1968 act, and we have had to go to court to obtain some rulings. Some have confirmed jurisdiction; others have not.

With each erosion of these definitions the ability of the government to pursue cultural and social objectives for broadcasting on behalf of all Canadians is also eroded.

Since 1968 much has happened to impact on broadcasting. The Canadian Charter of Rights and Freedoms, the changing role of women, a greater recognition of the particular contributions of the French-speaking and English-speaking communities, the strength of our multicultural diversity, and the recognition of the special place of aboriginal peoples in Canadian society—these are all changing the way in which we approach broadcasting and what is expected of the medium. The pressure for legislation that recognizes this changed society grows every day.

Canada is a much different country today from what it was in 1968, and Bill C-136 reflects those changes. Let me elaborate briefly.

[*Translation*]

The last two decades have been characterized by an ever increasing awareness of human rights. Canada has patriated its Constitution and enshrined a Charter of Rights and Freedoms therein. Access for all Canadians to broadcasting services that are meaningful in terms of the Canadian reality and fair representation for the various points of view are among the rights given recognition in Bill C-136.

The presence of the two official languages is a reality that reaches beyond the constitutional realm; it has an impact on the entire broadcasting system. Bill C-136 explicitly acknowledges the existence of the two official languages and strongly requires that this be taken into account in all sectors of broadcasting. The CBC, as well as the CRTC, has special responsibilities in that regard.

This legislation recognizes the needs of various groups: Canadians living outside of urban areas, aboriginal peoples who want access to a broadcasting service in their own languages, Canadians with physical disabilities, as well as our many ethnic communities.

With the rapid growth in broadcast technology, Canadians are demanding an ever greater variety of alternatives. Our broadcasting system provides a truly remarkable range of radio and television signals. There are literally dozens of radio signals in the main cities and cable television carries dozens of channels.

The mix includes private and public stations, as well as Canadian programing in English and in French. Those alternatives are being expanded by new enterprises and technologies. The 1968 act now in force, which is based on a single technology, thwarts the economic development of broadcasting.

However, in their demands for more and better alternatives, Canadians are sending a message that is loud and clear. It is: "We want access to increased Canadian programs especially in prime time."

Any new legislation must set out the overall broadcast framework policy, outlining the objectives of the broadcasting system as a whole, as well as the mandate, structure, and powers of both the CRTC and the CBC. However, our ultimate concern must be the variety of Canadian programing available to Canadians.

[*English*]

Bill C-136 safeguards all these measures. It will strengthen broadcasting. It will enrich our culture and our national identity. It will permit us to embrace new technologies. It will strengthen Canadian programing. And, above all, it will provide the choices Canadians expect.

Since programing is the first and most important issue, permit me to elaborate on the approach taken in this bill. This bill does not seek to limit choice but to ensure that competitive Canadian programing is provided within the totality of choices available. That means we must provide additional Canadian drama and a variety of prime time English television and must increase the production qualities of French language television.

● (1440)

[*Translation*]

I think it is important to emphasize that this bill is not intended to prevent foreign programs from coming into Canada. It has an entirely different purpose. It seeks to encourage the production in greater number of Canadian programs, involving all the members of the broadcasting system.

The CBC has a fundamental role to play in the production of a greater number of quality Canadian programs. Bill C-136 stresses this crucial role of the CBC and, in particular, its responsibility for carrying Canadian programs.

The CBC will have to provide a uniquely Canadian outlook in its programing, whether it be news, entertainment, sports or drama. Its mandate, as set out in the bill, gives it a leadership role in the production of a variety of truly Canadian programs, especially popular drama in both official languages.

But responsibility in the field of programing is not left solely to the CBC. Under the new act, private broadcasters will also, for the first time, have to assume responsibility in this respect. The bill gives the regulatory agency, the CRTC, new means to better supervise the broadcasting system.

[*English*]

I have already mentioned that the bill establishes an alternative programing service. This service is increasingly, urgently needed to provide the kind of programing we want, but which only rarely appears or does not appear on our existing television screens. Programs for the regions, programing with a multicultural dimension, and programs of the performing arts will be part of this service's specific mandate, which is anchored in Bill C-136.

This bill also recognizes the unique contributions that distribution services are making. While cable is the most common method of distribution, other forms are also emerging: subscription television, satellite master antenna television, multichannel, multipoint distribution systems, and direct-to-the-home systems, to name only a few. Bill C-136 addresses them in a uniform and technologically neutral manner so as to encourage the most cost effective use of technology. It also clearly expects them to give priority to Canadian programing.

In summary, let me recapitulate why Bill C-136 is vital for Canada. First, it states the primacy for Canadian programing. Second, it reflects our linguistic duality and responds to the differences in English and French broadcasting. Third, it ensures that Canadian culture, tastes and society are reflected in programing and in employment opportunities in the system. Fourth, it provides all Canadians with access to a wide range of radio and television signals. Fifth, it is technology-neutral and able to accommodate technological change. Sixth, it provides for an efficient and responsive CBC and CRTC.

• (1450)

This bill represents the culmination of a long process of consultation with the broadcasting industry, with representatives of many special interests, with the provinces, with members of Parliament and with the Canadian public. Coast-to-coast hearings have been conducted, first by the task force on broadcasting policy, known as the Caplan-Sauvageau Task Force, and later by the Standing Committee on Communications and Culture of the other House.

Hon. Royce Frith (Deputy Leader of the Opposition): Did they also go across the country?

Senator Bazin: They did. Both the task force and the committee produced lengthy and detailed reports, making hundreds of recommendations. These recommendations have been supplemented by dozens of briefs and representations to the legislative committee that examined this bill.

Inevitably, with any legislation of this scope and complexity affecting an industry with so many different sectors, there are many competing interests to be balanced. This bill goes a long way towards achieving a balance among those interests while holding firmly to the goals I have just reviewed.

As a result, the bill before us for consideration has the full support of both Mr. Caplan and Mr. Sauvageau and of most of the individuals and groups who initially expressed concerns, including the Friends of Canadian Broadcasting, ACTRA and others. This bill is the product of lengthy, intense and sustained effort on the part of the Minister of Communications. It is a thoughtful, necessary, non-partisan instrument intended to ensure that Canadians everywhere in this vast country have access to a broadcasting system that meets their demands and reflects their interests. This bill represents as much of a consensus as it is ever possible to achieve in an area where so many competing viewpoints must co-exist.

Honourable senators, it is time this process was drawn to a close. The bill before us is worthwhile and long overdue. It deserves expeditious passage.

On motion of Senator Frith, debate adjourned.

UNEMPLOYMENT INSURANCE ACT, 1971

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. C. William Doody (Deputy Leader of the Government) moved the second reading of Bill C-158, to amend the Unemployment Insurance Act, 1971.

He said: Honourable senators, today I am pleased to begin the debate on the second reading of Bill C-158. This bill is an amendment to the Unemployment Insurance Act, 1971 to extend the variable entrance requirement, the VER.

According to the provisions of the Unemployment Insurance Act, 1971, a person applying for UI benefits must have a minimum of 14 weeks to qualify. But since the late 1970s the VER has been used to make this requirement more flexible and responsive to the needs of unemployed Canadians—especially those numerous Canadians who lose their jobs when they have only ten to thirteen weeks of insurable employment to their credit.

The UI program plays an important role in our social security system. UI benefits replace lost income. They help maintain the stability of local economies and they also help to protect the jobs of people employed in those communities.

According to the VER, the number of weeks that an unemployment insurance claimant needs in order to qualify depends upon the rate of unemployment in the region in which he or she lives. Therefore, in regions of high unemployment claimants can qualify for benefits with as little as ten weeks of insurable employment.

As honourable senators know, the present VER legislation is in effect only until January 3, 1989. We propose to renew it in order to enable thousands of Canadians living in regions where the economy is weaker to qualify for UI benefits.

Statistics show that the Canadian economy is doing well. However, in some regions economic recovery is slower and the rate of unemployment remains higher than the national average. A failure to extend the variable entrance requirement at this time would have serious consequences for those regions.

One of the basic principles of this country is that we are always ready when the need arises to help those regions that are experiencing economic difficulty.

The VER recognizes that it is more difficult to find and keep a job in a region of high unemployment. This is, in fact, one of the most important aspects of the UI program, since it takes into account the labour market conditions in each region of the country.

If the VER is not renewed, honourable senators, all claimants, as of January 4, 1989, will have to show that they have at least 14 weeks of insurable employment in order to be entitled to unemployment insurance benefits. This means that more than 80,000 unemployed Canadians could be unable to meet the entrance requirements to receive UI benefits.

Thousands of Canadians would thus find themselves in difficulty and most would have to turn to other sources to support themselves and their families. That would inevitably have an impact on provincial welfare programs. This government wishes to continue to provide financial support to Canadians in the designated regions; that is, those who need it most.

It is important that Bill C-158, to renew the VER for a 12-month period, be passed as quickly as possible. In this way unemployment insurance claimants will know where they stand with regard to their entitlement.

As I mentioned earlier, the VER enables us to recognize economic disparity between regions when deciding the entitlement of unemployment insurance claimants. It is in this connection that the VER was created and it is for this reason that we want to continue it for the next year.

I am asking the support of all honourable senators in passing this amendment for the renewal of the VER for a 12-month period to January 6, 1990. I thank honourable senators for

their support, and I suggest that it may be appropriate to refer this bill to a Committee of the Whole for study, perhaps tomorrow morning, if honourable senators feel that committee study is necessary in this particular case.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I intend to adjourn the debate on the second reading of this bill. I understand that, if everything goes as Senator Doody would like it to go, it will be presented for Royal Assent tomorrow, and not today. Am I correct in thinking that the ultimate deadline is January 4, 1989; that is, January next?

Senator Doody: That is correct.

Senator Frith: In other words, the benefits referred to by the honourable senator will continue until January 4, 1989, but not thereafter, unless this bill or a similar bill is passed before that date.

Honourable senators, I just want to look at Senator Doody's remarks, after which I will speak on second reading. As presently advised, I agree with Senator Doody that it would seem to be an appropriate bill for referral to Committee of the Whole. I assume that he will be able to produce the minister for that purpose.

Hon. Eymard G. Corbin: Honourable senators, before the adjournment of the debate I should like to ask Senator Doody a question. Is that not the same speech he made on the same subject a year ago?

Senator Doody: It seems to me, honourable senators, that I and other colleagues have had occasion to make this speech, or a version of it, each year for the past several years. I hope that the act is changed in such a way as to make it unnecessary to keep repeating this speech, but the essence of the need does not change. The variable requirement is an important part of the economy of some smaller communities in my province, and I suspect in Senator Corbin's province.

• (1500)

Essentially, Senator Corbin is absolutely right. This is a repetition of the same amendment that has been passed every year for the past several years.

On motion of Senator Frith, debate adjourned.

PATENT ACT

BILL TO AMEND—THIRD READING

Hon. Ian Sinclair, for Hon. M. Lorne Bonnell, moved the third reading of Bill S-15, to amend the Patent Act.

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

[*Translation*]

Hon. Paul David: Honourable senators, to refresh our memory, briefly I will go over the history of Bill C-22 and Bill S-15.

Bill C-22 was introduced in the other place on November 7, 1986. The Senate sent it back twice with amendments before passing it, one year later, on November 19, 1987.

[Senator Doody.]

Bill S-15, which is sponsored by Senator Bonnell, aims at amending the Patent Act. It was introduced in the Senate on March 1, 1988. It was referred to the Standing Committee on Banking, Trade and Commerce on June 21. The chairman of the committee, Senator Sinclair, produced an interim report which could be called a progress report, on September 14 and two weeks later he tabled his final report.

The interim report seemed to me to be well documented and objective, considering the complexity of data interpretation. The two main points from the interim report are the following:

First, in 1987 the price of drugs increased at a rate that was higher than the Consumer Price Index, but by only 2 or 3 per cent, which is much less, apparently, than opponents of Bill C-22 had feared.

Secondly, even the Association of Generic Product Companies, I gather, does not agree with the automatic sanction proposed by Bill S-15 in the case of patent drugs whose price increases faster than the CPI. The reason is that this industry is concerned that provinces, who buy large quantities of generic products, might adopt the same attitude towards their products when they are listed in provincial formularies.

In this progress report, the committee suggests it should study other data and hear further witnesses before tabling its final report.

On September 22, the committee heard and questioned Dr. Harry Eastman and I read the draft version of his testimony.

Allow me to summarize the nine points I believe were the most important in Dr. Eastman's testimony.

1. Dr. Eastman points out that he is the chairman of the Patented Medicine Prices Review Board. I think that the bill includes all drugs but the board only deals with patented medicines. In fact, the board doesn't have the mandate to monitor the evolution of generic drug prices.

2. The board is now made up of two members: Dr. Eastman and Dr. Goyer. Under the law, it could have three more members for a maximum of five. Mr. Ray Atkinson, the board's executive director, leads the whole administrative support team.

3. Since December 7, 1987 is the date of proclamation of Bill C-22, it was chosen by the board as the benchmark date for price controls rather than June 27, 1986 as proposed in Bill S-15.

4. To review any increase in the price of a patented medicine already on the market, the board takes into consideration a number of factors that you already know and that I will summarize:

a) the main one is the Consumer Price Index, since it can lead to a possible analysis of the price of a patented medicine deemed to be excessive. However, the board considers other factors in its review of price increases;

b) the prices of that medicine during the preceding five years, that is since 1983, which is a much longer period than the one proposed in Bill S-15;

c) any particular circumstances accounting for an increase would be taken into consideration. Dr. Eastman referred to quinine, which during the Vietnam War became a very scarce commodity and greatly increased in price because of that. It is a drug used medically in many entities and often in cardiology to control heart irregularity.

5. As another factor to evaluate a reasonable price for a new patent drug, Dr. Eastman established the following criteria. While they do not involve Bill S-15, it is worthwhile to recall them. Those factors are:

(a) comparison to other similar drugs;

(b) comparison to the median price of the same drug in seven industrialized nations with standards of living similar to ours, namely France, Italy, Sweden, Switzerland, the United Kingdom, the United States and West Germany; and finally,

(c) any special circumstances and the budgets that were needed for research and development.

6. Those principles were used to draft regulations that have since been approved by Order in Council on September 15, 1988, copies of which were promised to committee members. They may have already been made available to the committee chairman.

7. Those regulations will be sent to patent drug companies along with forms, in order to inform them of the techniques and methodology that will be used by the Price Review Board. A number of seminars will be held to properly inform the parties involved, i.e. the entire innovating drug industry.

8. Where the price of a drug is deemed excessive, the board, under the Patent Act, has the authority to withdraw the patent for that drug and to add a second patent drug from the same company.

9. The board feels it will have all the information needed to perform its task as of January 15, 1989, that is four months from now.

After reading the testimony of that expert on the pharmaceutical industry, I could not find in the comments to the proposal to pass Bill S-15 unamended any argument that would convince me to support it. Quite the opposite.

I submit that the Patent Drug Review Board chaired by Dr. Eastman is an instrument that will prove efficient in the control of prices of both old and new patent drugs. Since the major criterion for old patent drugs is the comparison drug price-consumer price index, it is in line with the basic idea of Senator Bonnell's Bill S-15 without using that index as the sole reference, as the automatic reference to determine whether the price is excessive. Further, the other reference, being the comparison of price to its evolution over the five previous years, goes beyond June 27, 1986, the date put forward in Bill S-15.

Adding the comments I had today to the other reasons I explained at length in my speech of March 15, 1988, I am still very much opposed to the bill and I urge honourable senators to support my view.

• (1510)

[*English*]

Hon. Ian Sinclair: Honourable senators, as you know, Senator Bonnell is out of the country on Senate business, so I am speaking on his behalf and reminding you that, as set out in the report of the committee on Bill C-22 of October 1987—and I will read two parts of it to you from page 25 of the report—it states:

> The PMAC made it clear that it views the mandate of the Board as requiring it to limit drug price increases to the rate of change in the Consumer Price Index, or less. That position was taken in its brief to the Committee; it was reiterated in response to questioning.
>
> The Minister stated on a number of occasions that the Board is to keep the rate of drug price increases at or below the change in the CPI.

When Dr. Eastman was before the committee he pointed out that patented drugs that had notices of compliance and were on the market prior to December 7, 1987, would be deemed to be excessive if they exceeded the CPI. I repeat, they "would be deemed to be excessive." In other words, there was a rebuttable presumption, but the presumption was there. The tests for new drugs, which were not patented by that time, are quite different and are not touched by Bill S-15, as Senator David has indicated. There is where you look at these other countries, and so on.

But the rebuttable presumption that is now provided for in Bill C-22, and which is taken away by Bill S-15, is in accordance with the PMAC's undertaking as well as the undertakings of the minister when he appeared and stated on numerous occasions that the prices of these drugs would be limited to the CPI or less.

The statistical work is difficult. The disentanglement of the statistics is indeed difficult. But there is a clear statement on all of the statistics that is easily discernible. None of the statistics indicates that the prices of patented medicines are not exceeding the CPI—in fact, they have done so quite often.

As we pointed out in our report, we sent experts from the Library of Parliament to Greenshield in St. Catharines. They spent some time dealing with the data base of that company. During the period of 1987-1988, a full two years, they looked at more than 200 patented medicines that were paid for by Greenshield. They found 260 drugs that exceeded the rate of inflation by over 11 percentage points. As we say in our report, more disturbing is the discovery that 18 drugs of that sample—that is, 7 per cent of the sample—had price increases of over 50 per cent in January of this year, and ten of those drugs more than doubled in price in that month.

It was for that reason, honourable senators, to carry out the undertakings of the patent medicine association and the undertakings of the minister, that Bill S-15 was introduced by Senator Bonnell.

Why does the date in Bill S-15 go back to 1986? To give you the reason for that, let me just quote a statement made the

other day by the Honourable Mr. Epp. He said, "Retroactive legislation is not done by our government."

That was a point that we raised. However, it was not followed in Bill C-22. As Senator David has noted, the benchmark under the Patent Drug Prices Review Board is December 7, a month after Bill C-22 was passed, and almost two years after the period of exclusivity was granted by Bill C-22. For those two reasons, this bill carries out the undertakings of the patent medicine association and the undertakings of the minister, and I urge honourable senators to pass it.

● (1520)

Hon. Jacques Flynn: I move the adjournment of the debate.

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

Hon. Royce Frith (Deputy Leader of the Opposition): No.

Senator Flynn: What do you mean, "No"?

Senator Frith: I mean no.

Honourable senators, I spoke to Senator Doody yesterday about this matter. I am not suggesting that he can make a commitment on behalf of Senator Flynn, but I want to make it clear, and there should be no surprise, that we had hoped to start debate on this bill yesterday. Obviously, we would have needed leave to do so. Leave was not granted, because Senator David was not ready to go ahead yesterday, and that is quite reasonable. However, we made it clear that we wanted a vote on the bill today, and that is why I hope Senator Flynn, if he wants to intervene in the debate, will go ahead today. We wish to have a vote on this matter today, and that is the understanding we had.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, Senator Frith is absolutely right. Yesterday, when Senator Frith suggested that we dispose of the matter, I interceded on behalf of Senator David, who was most anxious to speak on this subject. It is one in which he has a great interest and to which he has devoted a lot of time. It was agreed that Senator David would be given the opportunity to speak today and that we would conclude the matter today. Obviously, I could not speak for everybody in the Senate. Perhaps I presumed too much, but I did tell Senator Frith that it was certainly all right with me if this thing came to a head today.

Senator Frith: Can you speak on the debate now, Senator Flynn?

Senator Flynn: Honourable senators, I do not think I am bound by the agreement.

Senator Frith: No.

Senator Flynn: However, I am used to being pushed by the majority. I have some experience in this place and I know how the system worked previously; when it was deemed necessary to push through legislation, the majority would oblige us to prestudy bills, and it obliged us to be ready for any date that the government wanted.

Senator Frith: We could never oblige you to prestudy bills.

[Senator Sinclair.]

Senator Flynn: Oh, yes. You have a very short memory.

Senator Frith: Someone has.

Senator Flynn: I have discussed this point on several occasions, and I challenge the honourable senator to deny that.

In any event, because I am not entirely prepared for today, I will say just a few words on the bill now. I was hoping to speak tomorrow.

● (1530)

[*Translation*]

Honourable senators, I must say I was extremely surprised by this report from the Standing Committee on Banking, Trade and Commerce under the chairmanship of Senator Sinclair. Coming from this committee, it surprised me even more since the bill if not quite demagogic, is at least purely partisan. It is a vengeful bill which follows up c the formidable debate we had on Bill C-22. It is sponsored by Senator Bonnell who held up Bill C-22 God knows how many months, because I have not had the time to check the dates.

One sure thing is that the way the Liberal majority in the Senate treated Bill C-22 delayed the application of controls on the price of patent drugs for many months. If unjustified increases occurred, they are to be blamed on the filibuster which Senator Bonnell led on Bill C-22 with the help of Senator Sinclair and others.

Honourable senators, I must say that I am very distressed by Senator Sinclair's attitude towards Bill C-22 and S-15. I have a problem reconciling his personality with the kind of bill he wants us to pass today.

First of all, the bill is premature. It was revengeful but premature because Bill C-22 came into effect only last December and the Patented Medicine Prices Review Board started operating only recently. Regulations governing how the board will determine if a price is excessive have just come into effect. They were tabled at the last sitting of the Committee on Banking, Trade and Commerce, which I attended.

When he appeared before the committee, Dr. Eastman tabled a copy of those regulations. Therefore, Bill C-22 as passed by the Senate hasn't yet been fully tried and tested.

Senator Sinclair says that he wants to follow up on the minister's guarantee, but we should still give that guarantee a chance to be tested! It amounts to saying that because the minister said he wants to influence the price assessment in such or such a way we will impose strict regulations. Let us wait and see how the board members will act!

Because the minister said such or such a thing, that has to be the law word for word. I find that rather extraordinary. And this before we have had time, I repeat, to let what was Bill C-22 become a fully operative law.

The second point is that forcing the Patented Medicine Prices Review Board to suspend the patent in cases where the price is excessive does not make any sense in certain circumstances. If, as Senator David pointed out, the shortage of a given ingredient stems from factors quite beyond the drug

manufacturer's control, the board has no choice and must withdraw the patent.

We were just talking about a crisis. An ingredient happens to be in short supply. We must pay a much higher price outside this country. The price cannot go up here in Canada so people will have to do without that drug because otherwise the patent is cancelled.

I am saying quite simply that this is an utterly idiotic principle. It is because some people still harbour bad feelings about Bill C-22 that Bill S-15 was introduced simply to salvage the pride of Senator Bonnell after his futile and harmful opposition to Bill C-22.

If the Senate is stupid enough to send this bill to the House of Commons at this time it will bear full responsibility for its decision. In any case I could not care less, Bill S-15 will die on the Order Paper of the other place.

[*English*]

Are you moving the adjournment of the debate?

Senator Frith: No. Senator Flynn's intervention reminds me of a statement Sir Winston Churchill is supposed to have made, that it took him at least three hours to prepare a good five-minute extemporaneous speech. I do not know how Senator Flynn could have prepared his speech any better if we had waited another day. I do not agree with what he said, but it was well delivered.

Senator Perrault: It took him all of five minutes to get it together.

• (1540)

The Hon. the Acting Speaker: It is moved by the Honourable Senator Sinclair, seconded by the Honourable Senator LeBlanc, that this bill be read the third time now. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Flynn: No.

Senator Phillips: On division!

Senator Frith: Honourable senators, technically, we should move the motion on behalf of Senator Bonnell, since he was the sponsor. Of course, that does not deal with the question of the vote.

An Hon. Senator: Is it on division?

Senator Flynn: As far as I am concerned, it is "no". I did want a recorded vote on this matter, but I would not want to be the only one to rise.

Senator McElman: Then rise. Don't sit there; show yourself.

The Hon. the Acting Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Acting Speaker: Will those honourable senators who are against the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Acting Speaker: In my opinion the "nays" have it.

And two honourable senators having risen.

The Hon. the Acting Speaker: Please call in the senators.

• (1600)

The Hon. the Speaker: Let the doors to the chamber be locked.

Motion agreed to and bill read third time and passed on the following division:

YEAS

THE HONOURABLE SENATORS

Argue	Lefebvre
Buckwold	MacEachen
Cools	Marchand
Corbin	McElman
Denis	Molgat
Everett	Olson
Frith	Perrault
Gigantès	Sinclair
Graham	Stanbury
Guay	Steuart
Haidasz	(*Prince Albert-*
Hays	*Duck Lake*)
Kenny	Stewart
Lang	(*Antigonish-*
Langlois	*Guysborough*)
LeBlanc	Thériault
(*Beauséjour*)	Turner—29.

NAYS

THE HONOURABLE SENATORS

Asselin	Macdonald
Balfour	(*Cape Breton*)
Barootes	MacDonald
Bazin	(*Halifax*)
Bélisle	Ottenheimer
Bielish	Phillips
David	Poitras
Doody	Robertson
Doyle	Spivak
Flynn	Tremblay—18.

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Let the doors be opened.

[*Translation*]

CONSTITUTION ACT, 1867

BILL TO AMEND—SECOND READING DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Molgat, seconded by the Honourable Senator Corbin, for the second reading of the Bill S-20, An Act to amend the Constitution Act, 1867 (Speaker of the Senate).—(*Honourable Senator Asselin, P.C.*).

Hon. Martial Asselin: Honourable senators, since I have presided over the proceedings of the Senate from time to time, for nearly four years, I think it would be appropriate for me to comment briefly on the tabling of this bill which deals with electing the Speaker of the Senate.

Strange as it may seem, at the present time the Speaker of the Senate is not elected, while the Speaker *pro tempore* is elected by the senators. Perhaps the bill's sponsor wanted to give us this opportunity to discuss the possibility of electing our Speaker so that the Speaker derives his authority from the same source.

Senator Molgat: I didn't realize my suggestion would be so well received!

Senator Asselin: When the bill was tabled in the Senate, the question arose whether, constitutionally speaking, the matter could be presented in this way. We know it is the prerogative of the Prime Minister and the Governor General in Council to appoint a senator to preside over the proceedings of the Senate.

If we consider the Constitution Act, 1982, especially when we are talking about the procedure for amendments to the Constitution of Canada, and we refer to section 44, it says:

> 44. Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

On constitutional ground, we are safe. This bill may be tabled in either of the two houses of Parliament and be passed there and receive royal assent.

Of course, when we are talking about electing a Speaker of the Senate, we have a picture of a modern Parliament that wants to keep up with the times, especially if we look at conferences and legislatures in general. I don't think anyone will question the need for electing the Speaker of the Senate.

For that matter, the experience of the House of Commons over the past year or two shows that the election of the Speaker has considerably improved the decorum within that chamber and given the Chair the authority needed to conduct objectively their debates.

I accept, therefore, the principle of an elected Speaker. I am of course in favour of this procedure. But when he introduced his bill, the sponsor acted very clearly. If this bill were adopted, this would mean that the senators on this side of the Senate would be greatly penalized, for they might have to wait eight or ten years before they become the majority and have one of them occupy the Chair, especially if the Speaker of the Senate is elected by the majority. Senators opposite might still have the chance, eight years hence, to elect "their" speaker.

Senator Corbin: Not necessarily!

Senator Asselin: My honourable friend opposite says "not necessarily," as if we did not know him. It might not be necessary if the Senate had not become such a biased political entity. When I came here in 1972, the Senate did not operate as it does today. I saw several times senators on the opposition and government sides taking positions on important issues without showing any political bias as is much too often the case today, either from the opposition or the government. So, when my honourable friend Senator Corbin says no, not at all—

Senator Corbin: No; I said "not necessarily."

Senator Asselin: Not necessarily? I suggest we would have to have on this side of the Senate a superstar for the opposition to accept one of us as Speaker.

Senator Lefebvre: You have several superstars.

Senator Asselin: May I continue? You are certainly a good candidate, but we do not see you often. You use to sit in the corner, but now that you have moved, you are much more visible.

Senator Lefebvre: That is better!

Senator Asselin: If he was invisible before, now he is much more visible.

As I was saying, honourable senators, the election of the Speaker of the Senate should not be made on the basis of one single piece of legislation. We should associate the election of the Speaker with many changes and amendments to our parliamentary customs in the Senate.

Suppose that you elect a Speaker who is called upon to rule on an important matter of procedure, point of order or question of privilege and that most honourable senators do not agree with his or her decision, even with the right to appeal or overrule such decision, I suggest we are wasting our time.

We have seen this during the present session. The officers of the Speaker and I worked for hours and hours on an important procedural decision. The Speaker reported his decision to the Senate. Senator Molgat rose and asked that the Speaker's decision be revoked, with the result that it is not the chair's rulings that carry weight but rather the decision of the majority, which can overrule the chair.

So if we want to elect a Speaker and keep these archaic provisions within our rules, I feel that we are going the wrong way.

Also, since the Speaker lacks a certain moral authority to conduct the proceedings, it has become necessary to remove from our rules provisions that are unacceptable in a modern, efficient Parliament.

For example, during this session, it has happened that the Speaker tried to intervene when some senators wanted to abuse the rules of procedure. I am not only talking about our friends across the floor but about all senators here present. We are told that under rule 15, the Speaker has the right to maintain decorum and order. For example, when a senator abuses the present rules for Question Period and gives a preamble that lasts 10 minutes—I have already checked and some senators

have done that—before asking a question, and the Speaker was not allowed to intervene and to ask that senator to kindly put his question so that—

Senator Guay: You can talk about that with Senator Flynn!

Senator Asselin: Honourable senators, I was saying that other senators must be given a chance to ask questions and if we leave that permissive procedure on our books, it is no use having a Speaker of the Senate who is elected by the senators, if he has no power to intervene and call to order a senator who is abusing the rules.

● (1620)

[*English*]

Senator Olson: What about you and Senator Flynn?

Senator Asselin: Perhaps not myself in this session, because quite often I was sharing the duties. When I was a member of the opposition perhaps I also abused the rules. I am not speaking against you, Senator Olson—I know you abuse the rules quite often—but I am speaking generally about the method of procedure in the Senate.

[*Translation*]

Honourable senators, I say that if the only purpose of this legislation is to elect a Speaker without some major changes in the Senate structures and some of its obsolete rules of procedure, I think that we are wasting our time.

I do not agree with those who would consider a multi-stage approach with regard to changing the rules, the procedures or the structures of the Senate. Today, we would deal with the election of the Speaker; tomorrow, we would be considering honourable senators' attendance and so on. I think that a review of all those changes must be considered as a comprehensive plan.

We have always been reluctant over the years to initiate any changes. The Honourable Senator Molgat is aware of it because he was once the joint chairman of the Special Joint Committee on Senate Reform. That was several years ago.

Ensuing governments have neither accepted nor implemented any of the proposals we had suggested. Today we are still wondering how we should change the structures of the Senate.

If the Committee on Standing Rules and Orders chaired by Senator Molgat wants to put forward a global plan including the election of the Speaker, I think that he would find a strong supporter in me.

But if the election of the Speaker is used only to correct important deficiencies in our democracy without giving the Speaker of the Senate the powers he needs to oversee the debates of this house with dignity, then I feel that we are wasting our time discussing this bill.

In conclusion, I invite my colleague Senator Molgat and the members of the Committee on Standing Rules and Orders to tell us how extensive the reform of our structures should be so that even an elected Speaker would have the authority to direct properly the proceedings of this house.

In brief, it is a whole attitude towards the Chair which must be changed in order to enable it to carry out its duties with dignity and impartiality.

Self-discipline is not enough to bring about a general change in attitude.

[*English*]

Hon. Finlay MacDonald: Honourable senators, I should like to ask Senator Asselin a question. I believe that implicit in Senator Molgat's motion were consequential amendments to the rules, particularly the archaic rule 15. Am I correct in that assumption?

[*Translation*]

Hon. Gildas L. Molgat: Honourable senators, if I speak now, it will have the effect of closing the debate on the motion for second reading of this bill.

The Hon. the Speaker: No, Senator Molgat, because you are asked a question.

Senator Molgat: Honourable senators, according to the rules, I do not think I am entitled to answer questions unless I was the last to speak on the subject, except if I have unanimous consent.

Hon. Gerald Ottenheimer: All right, Senator Molgat, there is unanimous consent.

[*English*]

Senator Phillips: Go ahead and answer.

Senator Molgat: Senator MacDonald asked me that question immediately after my speech. My reply was that this is only one step in the reform. How far the reform will go after that will be up to the Senate. I am pleased that Senator Asselin has clearly stated that this first step is within our power and the power of the House of Commons. It does not have to be referred to the provinces.

I do not think there is any possibility that the Senate will give the Speaker—with all due respect to His Honour the Speaker—authority so long as he is appointed by someone else. We have to start with the first step of electing our own Speaker. Then we have to look at what rule changes we wish to make.

The rule changes would be up to the majority in the Senate. The Rules Committee would make recommendations, I presume, and then the Senate would have to decide.

Hon. Orville H. Phillips: Honourable senators, may I direct a question to Senator Molgat? Would he not agree that it would be of benefit to honourable senators to know what rule changes are required to have the Speaker elected? That would assist them in deciding whether they are in favour of having the Speaker appointed or elected.

Senator Molgat: Senator MacDonald and Senator Asselin touched on two changes, in particular. One is the right to appeal decisions of the Speaker; the other concerns his authority within the chamber. I know there are different points of view on these matters; indeed, a number of my colleagues do not agree that we ought to give our Speaker that additional

power. We have heard speeches on the subject. I think it would be a forward step, but, again, it would be up to the majority.

There may be other changes, Senator Phillips, but those are the two that I know have been mentioned up to this point.

On motion of Senator Bélisle, for Senator Kelly, debate adjourned.

ROYAL ASSENT BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Phillips, for the second reading of the Bill S-19, An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(*Honourable Senator MacEachen, P.C.*).

Hon. Jacques Flynn: I assume that the honourable senator has not made up his mind on this matter. Is he still reflecting?

Hon. Allan J. MacEachen (Leader of the Opposition): Yes, and in consultation.

Senator Flynn: I hope you will consult Senator Molgat and the reports that were made by the Rules Committee some years ago.

Senator MacEachen: Thank you.

Senator LeBlanc: Times change.

Order stands.

● (1630)

BUSINESS OF THE SENATE

Hon. Charles McElman: Honourable senators, on behalf of this side of the house, I ask that all remaining orders stand.

Hon. Orville H. Phillips: Honourable senators, I ask that all remaining orders stand, then.

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

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 10 a.m.

THE SENATE

Friday, September 30, 1988

The Senate met at 10 a.m., the Speaker in the Chair.

Prayers.

[*Translation*]

THE HONOURABLE LÉOPOLD LANGLOIS

TRIBUTES ON RETIREMENT FROM THE SENATE

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I should like to indicate briefly that one of our distinguished colleagues, the Honourable Senator Léopold Langlois, will retire from the Senate this weekend.

Senator Langlois was born in the region of Gaspé. A renowned Quebec lawyer, he served gallantly as a captain in the Royal Canadian Navy during World War II. It was in the uniform of the Royal Canadian Navy that Captain Langlois ran in the 1945 general election. He was elected and thus began his long and distinguished career as a Canadian parliamentarian.

Throughout his career as a member of the House of Commons and the Senate, Senator Langlois maintained a personal and dedicated interest in all matters affecting the Canadian Armed Forces.

Appointed to the Senate in 1966, he served with distinction, first as Deputy Leader of the Government and later as Deputy Leader of the Opposition. I know that in the parliamentary archives of Canada, the heated exchanges between Senator Langlois and his Quebec colleague Senator Jacques Flynn will have quite a special place. Senator Flynn will no doubt refer to them, and probably so will Senator Langlois more extensively later on.

Personally, I had the great pleasure and privilege to travel overseas in the company of Senator Langlois in the Fall of 1984 at the head of a delegation of Canadian veterans attending ceremonies commemorating the liberation of the Netherlands 40 years earlier. I have very good memories of this trip.

For several years, Senator Langlois acted as Chairman of the Standing Committee on Transport and Communications, a position in which he showed great dedication.

Captain Langlois, I want to express to you my deep and sincere gratitude and that of the government for all you have accomplished for your country. I hope that your leaving the Senate will not mean the end of your active involvement in public affairs. I wish you good health, happiness, and God bless you.

[*English*]

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, Senator Murray has done an extremely thorough job of outlining the distinguished career of Senator Langlois. It is a matter of regret that his service will no longer be available to the Senate of Canada, because his service both in the House of Commons and in the Senate has been one of dedication and reliability.

It occurred to me as Senator Murray spoke that Senator Langlois' career reaches very far into our political past. Not many among us entered the House of Commons in 1945 under the prime ministership of the late Mr. King and observed the rather tumultuous events that occurred in the immediate post-war period, and witnessed the development of major changes to our social legislation and the establishment of the foundations of the Veterans Charter, a matter, for example, in which Senator Langlois took great interest. Of course, that history is important in itself, but Senator Langlois has had the opportunity to observe the leadership of our party under Mr. St. Laurent, Mr. Pearson, Mr. Trudeau and, now, Mr. Turner; in the meantime, he also observed the leadership in the Commons of Mr. Diefenbaker in his most effective and, one might say, eloquent years. So it may be that now that he is relieved of the burdens of legislative duties Senator Langlois will turn his mind to putting on paper his impressions of these rich political experiences.

When I entered the House of Commons in 1953, Leopold Langlois was a seasoned parliamentarian. Those of us who entered were novices and stood in awe, particularly of the Prime Minister and ministers. They were a breed apart, only to be respected and seldom disagreed with. That has changed, but even in those days parliamentary secretaries, as they were called, were held in great esteem, because from that group of parliamentarians were selected the future ministers. If one were a parliamentary secretary, it was often the case that that person would become a minister. In Mr. Langlois' case, he was called to higher service and became a member of the Senate.

Hon. Senators: Hear, hear!

Senator MacEachen: I remember all those days with great interest and a certain amount of nostalgia. It is a reminder of the inexorable march of time that Léopold Langlois, whom I still regard as a young man, has completed his career in the House of Commons and has completed his career in the Senate. I see him yet as he appeared to me in those days in 1953, when I had that great respect for senior parliamentarians I have referred to, and which in his case I have never lost.

● (1010)

[*Translation*]

Hon. Jacques Flynn: Honourable senators, I rise not to dwell on the debates mentioned earlier by the government leader in the Senate but to give my personal impressions on the

life and career of Senator Léopold Langlois who is leaving us because he will be 75 this Sunday.

The theme of his life and career is the same obvious background: the sea! The Gaspesian sea at Sainte-Anne-des-Monts in the Gulf of St. Lawrence where he was born to his sailing father, Captain Octave Langlois.

It was near the same Gaspesian sea that he attended classical college at Gaspé and Rimouski.

Then he studied law at Laval University. That is where I went one year after him. He was one year ahead of me at Laval and at the Quebec Bar to which he was called in 1938. He began working immediately for a maritime insurance brokerage firm. When World War II broke out he joined the navy, as you would have guessed. He was discharged in 1945 with the rank of lieutenant commander. He could spend hours telling us about his adventures in the North Atlantic.

Celebrations for the victory in Europe had hardly begun when he went into politics. He was elected to the House of Commons in a maritime riding, the place where he grew up, the region of Gaspé.

As a professional lawyer he teamed up with William Morin, a colleague specializing in maritime law and a former deep-sea sailor.

He eventually became the senior partner of the legal firm Langlois, Drouin and Associates.

During his 12 years as MP for Gaspé he was first appointed Parliamentary Secretary to the Postmaster General and then, moving closer to the sea, Parliamentary Secretary to the Minister of Transport.

He was defeated in 1957 but not by much—fewer than 100 votes. Until 1966 he worked full-time in maritime law for various firms and corporations specializing in shipping including, among others, the Association des propriétaires de navires du Saint-Laurent Incorporée, Groupe Desgagnés Incorporé, the Armateurs du Saint-Laurent Incorporés, and International Charterers (Bermuda) Limited. He was President of the Association des marins de la Vallée du Saint-Laurent Incorporée which is responsible for the Bernier marine museum of l'Islet-sur-Mer, an undertaking to which Senator Langlois devoted much of his time and for which we must all be grateful to him.

He was appointed to the Senate in 1966, so he has been in this house for over 22 years. Honourable senators will recall that he was Deputy Leader of the Government for many years. After that and until last spring he chaired our Transport and Communications Committee.

The Senate is indebted to him for his generous contribution in a number of fields but especially, I repeat, in his chosen field of activities, maritime law, where this institution benefited from his expert knowledge. I would recall that the Transport and Communications Committee he chaired until fairly recently proposed nearly 100 amendments and practically redrafted the Maritime Code which was designed to replace the Canada Shipping Act.

[Senator Flynn.]

Our colleague, who has now been a member of the Quebec Bar for 50 years, can also be proud of his 35 years in the House of Commons and in the Senate.

We in the Senate, like his many friends but especially those of Gaspé, are very proud of him.

Best wishes for good health so he may again and often see his region of Gaspé and the sea.

Our warmest greetings to his wife Ginette.

Hon. Martial Asselin: Honourable senators, as a senator from Québec, I have often come into contact with Senator Langlois. I would like to join my colleagues in saying that, with his departure, the Senate is losing a man who has left his mark on our major debates.

When I was called to the Senate in 1972, Senator Langlois was deputy government leader while Senator Flynn was the Leader of the Opposition. You can imagine the epic encounters that sometimes occurred. Those two Quebeckers would clash in vigorous and complex debates especially when financial bills were the order of the day. But once the debate was over, calm and friendship would settle in and both combatants would let bygones be bygones.

Mention was made of his impressive military career. He always felt for the people of Québec a strong patriotism. National unity was not only a slogan for him, it was a living reality.

He was and still is a brilliant lawyer who is listed on the rolls as an expert in maritime law. He fought very famous cases before the Canadian courts. As we say in Québec, of men of the law of his calibre, he is a good lawyer.

I regret your departure, Senator Langlois. I will remember you as an honest man, a hard-working man and a brave man, as a senator who actively participated in the Senate's proceedings, a senator who has served his country well.

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I would like to add a few remarks in the context of what has already been said. They will be brief but sincere, and express my gratitude to Senator Langlois, more particularly for the time when I succeeded him as Deputy Leader of the Government. I would like to point out how much he helped me, especially at the very beginning, but also since then. He sat near me and gave me great advice. I also found his help valuable in other situations. He shared his experience in parliamentary affairs with me. As we say, I shall miss you and we all shall.

Hon. Gildas L. Molgat: Honourable senators, my colleagues who have spoken so far have summarized very well the outstanding naval, military, legal and parliamentary career of our colleague, Senator Langlois. I shall not dwell on this aspect. I shall rather speak very personally. When I arrived in the Senate in 1970, the first senator with whom I had to work was Senator Langlois. He was then Deputy Leader of the Government and I was appointed whip very soon after I arrived. Those of you who were here at that time will remember what our very good friend the Honourable Paul Martin was like. You can imagine Senator Langlois and me working with

Senator Martin. It was always fun, sometimes frustrating and always very interesting. We worked together at that time. That is my first memory of that period in the Senate.

I also remember that every year at Christmas, Senator Langlois gave a small Christmas party in his office. He invited a very small group. Although I was a brand new senator, as whip I had the good fortune to be invited. There were famous singers like Senator Denis and others of that sort. It was always a fine occasion for this intimate circle of senators.

I have one regret, however. I was never able to accept Senator Langlois' invitation for a cruise on his boat that he kept in Quebec City. He invited me many times. Unfortunately, I was never able to accept.

I want to tell Senator Langlois how much I appreciated the opportunity to work with him and to thank him for the great friendship that we developed during that period. I wish him a long, happy retirement and a very happy birthday next Sunday.

● (1020)

[*English*]

Hon. Douglas D. Everett: Honourable senators, not to go over the ground that has been so well ploughed by others in respect of Senator Langlois' outstanding career, I would only like to mention, as an old naval man, that Senator Langlois joined the navy a few days after the beginning of the Second World War and remained in it until he was forced out by virtue of his having been nominated to stand for Parliament in 1945.

What is interesting about his career is that he was captain of at least two corvettes during the Second World War. Honourable senators are aware, of course, that much of the success of the allies in the Second World War was due to the very brave and determined men who sailed in those corvettes and kept supplies moving over to Britain and Europe. Not only was Senator Langlois on the Atlantic run, he was also on the Murmansk run.

One must remember that early in the war the Canadian navy was so ill equipped that the first corvettes sailed over with dummy guns that would not fire. These were brave men—they contributed greatly to the freedom of this world.

Honourable senators, throughout his life Senator Langlois has accomplished a great deal, in the House of Commons, in this chamber and as a lawyer, but I would recognize him most for what he accomplished as a naval officer in the defence of freedom.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Léopold Langlois: Honourable senators, this is a day I shall remember for a long time, not as a day of rejoicing but as the day on which I am about to be separated from many friends among my colleagues in this Chamber, although there were times when I did not entirely agree with all my colleagues, especially when they were in the Opposition, in relation to my party. There was some mention of my frequent exchanges with my friend Senator Flynn when he was Leader of the Opposition and I was his opposite number as Deputy Leader of the Government.

Senator Flynn and I always travelled together by car between Ottawa and Quebec City, when the Senate adjourned Friday afternoon. After a few exchanges in this chamber, one day Senator Flynn told me his daughter was indignant. She asked him, "How come you and Senator Langlois were at each other all afternoon and then you get in the same car to go to Quebec City, apparently without hard feelings"? I will never forget that. I know that when we disagree in this chamber on parliamentary issues, we may go overboard in our enthusiasm. However, nothing is ever said that might diminish the spirit of friendship that exists in this chamber. It is a memory I shall cherish for many years.

Earlier when I heard all this lofty praise, I wondered whether it was really addressed to me. I even pinched myself to be sure those kind words were about me, words reflecting the kind of friendship I have always appreciated here in the Senate with all members in this chamber, wherever they happen to sit. I shall cherish this memory for a long time. I also want to thank all those who so generously described my career in the Canadian navy and in the Senate.

I realize that when friends part, we may be tempted to exaggerate and in fact to say things straight from the heart because friendship has no bounds. I want to thank you all for your words of praise, which I accept as an expression of your friendship and kindness.

I shall never forget my years spent in the Senate, and I hope that during my retirement I shall live close enough to be able to come and say hello and maintain the bonds of friendship that have always existed among us. Thank you very much, and until we meet again.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-SEVENTH REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Roméo LeBlanc, Deputy Chairman of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Friday, September 30, 1988

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

SIXTY-SEVENTH REPORT

Your Committee recommends that the Senate retain the services of the Comptroller General of Canada, or failing him, a competent independent public accounting firm, to pursue the research already undertaken by your Committee regarding the travel expense allegations made against Senator Argue; and further

That the Intersessional Committee be empowered to carry out the said study during the possible dissolution of Parliament.

Respectfully submitted

ROMÉO LEBLANC
Deputy Chairman

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

Senator LeBlanc: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

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

Hon. Senators: Agreed.

Motion agreed to and report adopted.

LEGAL AND CONSTITUTIONAL AFFAIRS

THIRTY-FOURTH REPORT OF COMMITTEE PRESENTED, PRINTED AS APPENDIX AND ADOPTED

Hon. Jacques Flynn: Honourable senators, I have the honour of tabling the Thirty-fourth Report of the Standing Senate Committee on Legal and Constitutional Affairs.

I ask that the report be printed as an appendix to the *Debates of the Senate* and 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 leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Flynn: Honourable senators, with leave of the Senate and notwithstanding rule 45(1)(*f*), I move that the report be adopted now.

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

Hon. Senators: Agreed.

Senator Flynn: Honourable senators, perhaps I may provide a brief explanation. The committee had been given the mandate to examine the official French version of the Constitution Act, 1867, as provided in the Constitution Act, 1983.

This task was entrusted to a subcommittee of the committee I just mentioned. It carried out this task together with officials of the Department of Justice. We received an initial report from these officials. Following this report, we asked our former colleague, Senator Jean Lemoyne, to review the text that has been submitted to us. He did so. Senator Lemoyne's report was then discussed with the officials from the Department of Justice.

The text we are presenting now is one that should meet with general approval. I think it would be a good idea for the Senate to adopt it now. It would then be up to the other House to decide for itself whether it approves the text or will ask for another one.

Eventually, this text will be approved by the provincial legislatures. It's a long haul. At this stage, I think the Senate can assume it has finished its part of the task, for the time being. That is why I recommend adopting the report.

It will not be a tragedy if the report is not adopted before Parliament is dissolved. In any case, the process will have to start all over again, under a new committee. I do not think we should have any reservations about adopting this report now.

Motion agreed to and report adopted.

• (1030)

[*English*]

INTERNATIONAL CENTRE FOR HUMAN RIGHTS AND DEMOCRATIC DEVELOPMENT BILL

REPORT OF COMMITTEE PRESENTED

Hon. John B. Stewart: Honourable senators, I have the honour to present the sixteenth report of the Standing Senate Committee on Foreign Affairs, respecting Bill C-147, to establish the International Centre for Human Rights and Democratic Development.

A Clerk at the Table:

Friday, September 30, 1988

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

SIXTEENTH REPORT

Your Committee, to which was referred Bill C-147, An Act to establish the International Centre for Human Rights and Democratic Development, has in obedience to the Order of Reference of Wednesday, September 14, 1988, examined the said Bill and has agreed to report the same with the following amendments, comments, and recommendation:

Senator Stewart: Dispense!

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

Senator Stewart: With leave, later this day.

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

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, allow me to intervene before we vote on the motion. I know that someone asked that we dispense with the reading of the report, and I believe that copies are being circulated. However, it is quite new to me and perhaps we could have it read.

A Clerk at the Table:

1. *Page 2, clause 4:* Strike out lines 20 to 26 and substitute the following:

"democratic institutions and human rights programs that give effect to the rights and freedoms enshrined in the *International Bill of Human Rights*. It will be a major goal of the Centre to help reduce the wide gap that sometimes exists between the formal adherence of states to international human rights agreements and the actual human rights practices of those states. Among the rights and freedoms to be promoted by the Centre are the economic right to a decent standard of living, the rights of persons not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, and the democratic rights of freedom of speech and assembly, including the right to participate in periodic and genuine elections in a pluralistic political system. In carrying out those objects,

(a) to promote human rights and democratic development programs and activities in developing countries and elsewhere; and"

2. *Page 10, clause 28:*

(a) Strike out line 7 and substitute the following:

"28.(1) There shall be paid to the Centre out"

(b) Add, immediately after line 29, the following subclause:

"(2) In order to permit the Centre to undertake programs and activities in other than developing countries, it shall be free to use funds received from sources other than the Government of Canada for those purposes and from time to time funds additional to those specified in subsection 28(1) as may be paid to the Centre out of the Consolidated Revenue Fund for those purposes."

The amendments have two purposes:

(1) to emphasize, by drawing specific examples from the *International Bill of Human Rights*, that the Centre should be concerned with the development and strengthening of democratic institutions and human rights programs; and

(2) to make it clear that the Centre's focus of activities is not to be restricted to developing countries.

These amendments, which the Committee considered essential, conform fully with the purposes of the Centre as stated in the Bill. The Committee also wishes to see subclause 6(2) amended in the future to make it evident that the Centre need not seek formal approval for its activities from each foreign jurisdiction in which it might be conducting programs. Since such an amendment would have involved a matter of principle, which could have delayed the passage of the Bill, the Committee has limited itself to making a recommendation that subclause 6(2) be amended in the future.

Respectfully submitted,

JOHN B. STEWART
Chairman

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, do we have the report that has been read? I have not received it.

Senator Doody: Nor have I.

Senator Flynn: I have the text of the amendment.

Senator MacEachen: This text has no status, because it is not included in the report. I do not know why it was circulated. This particular document does not contain the amendments that are in the report, as I understand it. I cannot compare them, because I do not have the report. Let us stand it.

Senator Stewart: Honourable senators, perhaps a word of explanation would help. A clerk at the Table read the report as it was approved by the committee. However, there were some discussions aimed at improving and making the wording of the two amendments acceptable to the government. I understand that copies of the amendments, which resulted from those discussions, have been given to senators by mistake. The amendments adopted by the committee are those in the report that was read by a clerk at the Table.

The Hon. the Speaker: Honourable senators, I am told that copies of the report will be available in five minutes.

Senator MacEachen: Let us stand it, then.

On motion of Senator Stewart, with leave of the Senate and notwithstanding rule 45(1)(*f*), report placed on the Orders of the Day for consideration later this day.

BUSINESS OF THE SENATE

On Notices of Motions:

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, this is the time when we usually get to the adjournment motion. Unfortunately, since I do not know what the adjournment time will be or what the schedule is immediately, I shall have to ask for leave to revert to it later this day.

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

Hon. Senators: Agreed.

QUESTION PERIOD

DELAYED ANSWERS TO ORAL QUESTIONS
CANADA-UNITED STATES FREE TRADE AGREEMENT

AVAILABILITY OF GOVERNMENT PUBLICATIONS IN OTHER LANGUAGES

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable

senators, I have an answer to a question put on September 13, 1988, by our colleague, Senator Denis. The senator was inquiring about the government's intention to translate free trade pamphlets into various other languages.

The reply is that it is not the government's intention to translate free trade pamphlets into other languages beyond the four languages already available—Italian, Chinese, Portuguese, Greek—and our two official languages.

The decision to translate and print the pamphlets into these four languages was based on two factors, as discussed with the Secretary of State: the size of the language groups and the number within each linguistic group that does not utilize either English or French.

UNITED NATIONS

IRAN-IRAQ BORDER PEACEKEEPING CONTINGENT—RETURN OF SOME CANADIAN MEMBERS

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I have a delayed answer to a question asked by our colleague, Senator Molgat, concerning troops returning from the Gulf.

I had conjectured that perhaps the reason behind this question was that a number of personnel of the Canadian Forces there had been engaged in setting up communications systems, and, that work having been completed, they were returning home.

● (1040)

My shot in the dark turns out to have been a bull's eye. The information I have been given is that Canadian communications experts were sent to the gulf region to establish the systems and then turn them over to civilians. That work having progressed ahead of schedule, some of our troops are now returning home with their task accomplished.

ORDER PAPER QUESTION

LAPRADE FUND—REASON FOR DELAY IN ANSWERING

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): Honourable senators, I regret that Senator Graham is not here. With regard to his question on the LaPrade Fund, I can only say that the situation is as I suspected and indicated it was yesterday. The response to his question is still being processed. There had been a response produced and sent to Mr. de Cotret's office, but some inconsistencies were found in the reply, and I understand that Treasury Board is retracing the documents to correct these matters. As soon as this is done the reply will be provided in full.

[Senator Murray.]

ANSWER TO ORDER PAPER QUESTION

OCEAN INDUSTRY DEVELOPMENT SUBSIDIARY AGREEMENT

PROJECTS IN NEWFOUNDLAND—ANSWER TABLED

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I now have the answer to a question asked by Senator Marshall in April of this year. It deals with the breakdown of all contributions made by the Government of Canada under the Canada-Newfoundland Ocean Industry Development Subsidiary Agreement and involves a number of subsections. Since this is a voluminous document, I ask that it be tabled. Then, if any honourable senator wishes copies, of course, they can be made available.

Answer tabled.

AGRICULTURE

DISPERSAL OF BREEDING HERDS IN DROUGHT-STRICKEN AREAS—TAX DEFERRAL ON LIVESTOCK SALES—EXCLUSION OF BRITISH COLUMBIA CATTLEMEN FROM PROVISION—REQUEST FOR ANSWER

Hon. Len Marchand: Honourable senators, does the Leader of the Government in the Senate yet have an answer to the question I raised with him a few days ago with respect to the tax deferral scheme? I am particularly interested in how that scheme applies to British Columbia, as he knows. I wonder if he can enlighten me, and other honourable senators, on the inquiry that I made of him.

Hon. Lowell Murray (Leader of the Government and Minister of State for Federal-Provincial Relations): I am sorry, honourable senators; I do not have any information on that matter at the moment. I shall make inquiries immediately and bring in the information as soon as I can.

UNEMPLOYMENT INSURANCE ACT, 1971

BILL TO AMEND—SECOND READING

Leave having been given to proceed to Order No. 3:

Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Poitras, for the second reading of the Bill C-158, An Act to amend the Unemployment Insurance Act, 1971.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, as Senator Doody explained yesterday, the purpose of this bill is to extend the application of the VER—that is short for variable entrance requirement. In his intervention yesterday Senator Doody pointed out that this variable entrance requirement has been in effect since the late 1970s.

The general provisions of the act require that the qualification for unemployment insurance benefits be based on a minimum of 14 weeks. The variable entrance requirement has

changed that in order to provide greater flexibility than the main provisions of the act provide.

• (1050)

As he pointed out, the number of weeks an unemployment insurance claimant needs under the variable entrance requirement, the VER, is calculated on the basis of unemployment in the region in which the applicant lives. That, of course, is obviously where the flexibility arises, because one can apply the VER to circumstances as they arise rather than applying the more procrustean bed of the general provisions.

The only question left is that raised by Senator Doody in responding to Senator Corbin, when he said that he hoped this annual ritual would be replaced with something more permanent. If this variable entrance requirement has been working as well as suggested, and if its design is as intelligent as it seems to be, namely, permitting flexibility in the entrance requirements for one of our most important social programs, unemployment insurance, why should we not change the act permanently? Not only has Senator Doody repeatedly given the speech he gave yesterday but I gave it too when I sat in his seat, because this provision has been in effect since the late 1970s.

Perhaps Senator Doody or the parliamentary secretary can tell us more about this. There may be a reason why it is being done on this temporary basis rather than being made permanent.

Of course, I support both the principle of the bill and Senator Doody's suggestion that it would be appropriate to refer the bill to Committee of the Whole.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators—

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

Senator Doody: Honourable senators, if I may, I shall respond briefly to Senator Frith's question about why we have not made the variable entrance requirement a permanent feature of the legislation.

I am told that this suggestion has been considered, but that it has been decided that entrenchment in the Unemployment Insurance Act would eliminate the possibility of reviewing entrance requirements in the event that regional and economic disparities were significantly reduced at any time. A permanency could weaken efforts and incentives to find new regional development approaches that would make regionally differentiated income support unncessary, and, of course, any attempt to entrench this flexibility permanently would arouse considerable criticism from those people who have been lobbying for a tightening of the program.

However, I thank honourable senators for their support for this very necessary amendment to the act, and, after second reading, I ask the permission of the Senate to invite Mr. Jim Hawkes, the Parliamentary Secretary, and his official, Mr. McFee, to join us in Committee of the Whole.

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?

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, I move that the bill be referred to Committee of the Whole, and that the Senate do now resolve itself into a Committee of the Whole for that purpose.

The Hon. the Speaker: It is moved by the Honourable Senator Doody, seconded by the Honourable Senator Beaudoin, that this bill be now referred to Committee of the Whole.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

CONSIDERED IN COMMITTEE OF THE WHOLE

The Senate was accordingly adjourned during pleasure and put into a Committee of the Whole on the bill, the Honourable Senator Bélisle in the Chair.

The Chairman: Honourable senators, the Senate is now in Committee of the Whole to take into consideration Bill C-158, to amend the Unemployment Insurance Act, 1971.

Senator Doody: Honourable senators, may I have leave to invite Mr. Hawkes, the Parliamentary Secretary, and his official to join us in Committee of the Whole?

The Chairman: Is leave granted, honourable senators?

Hon. Senators: Agreed.

With leave, the Honourable Jim Hawkes, Parliamentary Secretary to the Deputy Prime Minister, and Mr. Gordon W. McFee, Director, Policy and Legislation, Employment and Immigration Canada, were escorted to seats in the Senate chamber.

The Chairman: Honourable senators, before introducing Mr. Jim Hawkes, the Parliamentary Secretary to the Deputy Prime Minister, I would suggest that anyone wishing to ask questions raise his or her hand in order to be recognized by the Chair.

Honourable senators, we are now in Committee of the Whole on Bill C-158, to amend the Unemployment Insurance Act, 1971.

Do you have an opening statement to make, Mr. Hawkes?

Mr. Jim Hawkes, Parliamentary Secretary to the Deputy Prime Minister of Canada: No, Mr. Chairman.

The Chairman: Honourable senators, shall the title be postponed?

Hon. Senators: Agreed.

The Chairman: Shall clause 1 carry?

Senator Frith: Mr. Chairman, I do have some questions.

The Chairman: Please proceed.

Senator Frith: Mr. Hawkes, the concept of the VER, that is, adding flexibility to entrance requirements, the flexibility being based on the rate of unemployment in particular regions where applicants reside, is somewhat impressive, because, as Senator Doody pointed out during second reading debate, and as we all know, rates of unemployment vary in our country and flexibility in the application of our social programs is one of the main bonds that keep our country together. The concept is a good one and it is generally agreed by all parties that it has worked very well.

If such a salutary concept has been so successfully applied, why do we have to proceed in this fashion every year or so? Why do we not make it a permanent part of unemployment insurance, which is one of the jewels in the crown of our social programs?

Mr. Hawkes: Thank you, senator. It is a pleasure to be here for the first time. I appreciate the invitation.

This particular amendment for the extension of a year has come before me on seven or eight occasions in my nine years in Parliament. I think a strong case can be made that we should deal with it in a different way in future.

● (1100)

At the moment there is an ongoing study, which was announced in August, related to the 48 regions. There are two sides to it. I think the principle is dealt with in the legislation before us, but the hidden part of it, if you like, is concerned with these questions: What are these regions? How do we determine their geography and how de we relate that to the percentage of unemployment that is there? I think the act as it is presently constituted provides the minister with the kind of flexibility he needs to adapt to changing circumstances in Canada. History has taught us that there could conceivably be too much rigidity in the system. If we tried to go too far in the statute form to lay things out for the future with rigid criteria, that could cause a problem.

Senator Frith: Could that not be solved by legislating ministerial discretion?

Mr. Hawkes: At the moment the act has that kind of discretion relating to the naming of the regions, for instance.

Senator Frith: But not the application of the VER to the regions.

Mr. Hawkes: No, that is correct.

Senator Frith: It does not. Why could we not pass an amendment to the act that would permit the minister to have the discretion that we are really continuing here anyway? Are we not continuing a ministerial discretion here for one year? As it says in the bill:

> . . . the number . . . shall be based on the regional rate of unemployment that applies to that person.

You say that is more rigid than a ministerial discretion and you do not want to make that rigid decision for all time or make it permanent. You want to keep doing it every year. Why is it important to keep doing it every year?

Mr. Hawkes: The historical reason for it is the expectation that we might have dramatic shifts in the unemployment rate. These things do vary. As a nation, we went through a period of very high unemployment and that was preceded by a period of very low unemployment. The notion of variable entrance and how to apply it is something that the government, over time and over several governments, has discovered works. The discretion that exists for the minister is related to the regions. You could make regions larger or smaller. You could redraw the boundaries. This particular amendment simply provides the legal authority to pay the cheques on the basis of the regions as determined by the minister.

Senator Frith: But why must that be temporary? All the section says is that the right to qualify for benefits, and I quote:

> . . . shall be based on the regional rate of unemployment that applies to that person.

So it is only based on that. Why can it not be permanently established that it will be based on that? Why do you, annually, have to allow it to be "based on"? The principle is the same every year.

Mr. Hawkes: I guess if you go back to the 1970s, when the act was changed, there was a version of a proposed change which came in with an eight-week minimum, which would have been across the board, and there was a great deal of negotiation amongst parties and so on, and the act got written with the 14 to 20 weeks in it, as a reflection of that Parliament's view as to what the situation should be for the future. We then started bringing in this amendment with the variable entrance requirement as a temporary measure because of the rapid acceleration of some unemployment problems in the country.

The view has been that the economy would improve to the point where we really could go back to the purpose of the statute. This process has gone on now eight times in my nine years in Parliament. We have come forward with it as another temporary measure. Certainly, on this occasion we are coming forward with it as another temporary measure. However, Parliament has not revisited the issue of whether or not the statute in its current form is what Parliament wants. Perhaps, in a new Parliament, it may indeed be time to revisit the basic nature of the statute; but at this point it is before you today as another temporary measure, probably with the same logic behind it that, hopefully, the economy will improve to the point where the statute itself is sufficient for the future.

By January 1990 we may have achieved the kind of economic growth, which I think all members of this chamber and the other chamber would want to see, where unemployment rates are so low that we can just let this temporary provision lapse for the future.

Senator Frith: The only problem I have with that is that it is based on an assumption that the economic growth will be not only great but uniform. The whole purpose of this section is to allow the government to be flexible, because history has taught us that, even when we do have economic growth, it is not uniform across the country. We have seen that with reference to the west, for example. As Canadians, we know that we have transfer payments and all sorts of devices in place to enable us to respond as a government to the fact that we have regional disparity and that it is not always the same regional disparity. In other words, it varies. I thought that was the genius behind this formula. However, I am reminded of the sign that says, "There is no damn reason for it. It is just policy." Certainly there is nothing partisan about it, because, of course, the previous government did exactly the same thing.

However, Mr. Hawkes, it is not a big deal, because we can review it every year. It is not that much trouble, but it just seems a little silly to do it. When we have found that it is good in concept and good in application, why not make it a permanent thing, especially since all it is saying is that the criteria shall be based on the regional rate of unemployment?

There was a study done by Mr. Forget on unemployment insurance. What did he have to say about the VER? I do not mean in a lot of detail. Did he think it was a good idea or a bad idea? Did he think we should continue with the practice of renewing it annually or did he recommend that it be made permanent, or do you recall what he had to say about that?

Mr. Hawkes: I am searching my memory. It was a voluminous report, with a lot of recommendations and a lot of areas, and I do not recall his dealing specifically with the notion of VER.

Senator Frith: Or making a judgment for or against it?

• (1110)

Mr. Hawkes: I think the thrust of his report was to acknowledge the different employment situations throughout the country—that there were different problems in different industries, such as the fishing industry and other seasonal industries. He was trying to help us, as a nation, discern the difference between a social welfare program and an unemployment insurance program. He raised those kinds of issues, but the concept of VER is not something that he dealt with directly, as far as I can recall.

Senator Frith: But it was, to a large extent, based on the very situation that led to the establishment of the VER, namely, this variability in terms of unemployment rates, seasonal unemployment and regional variations in unemployment.

Mr. Hawkes: As one aspect, that is correct. He also raised the variability of individuals. The geographic concept is one, but the trainability of people, their background and so forth is another issue. We are trying to bring those into better alignment for the future.

Senator Frith: Clause 1(2) deals with subsection 17(7) of the main act. It repeals that subsection and substitutes the following:

(7) The Commission—

I take it that is the Unemployment Insurance Commission:

—may, with the approval of the Governor in Council and subject to affirmative resolution of Parliament, extend the period mentioned in subsection (6).

Subsection (6) is the one we have just been discussing and the one that is being extended.

What did subsection 17(7) say before?

Mr. Hawkes: As I understand it—and I will get a signal if I have misinterpreted this—the present wording would say 133 months, and that is replaced with the (6). So it refers to subsection (6), which specifically tells us what to do.

Senator Frith: But the commission at present—that is, before this amendment is effected—has this power of extension.

Mr. Hawkes: I am not sure I caught the question.

Senator Frith: I did not look up the original section to see what it says. The amendment we are being asked to pass gives to the commission, subject to approval of cabinet, and subject to an affirmative resolution of Parliament, the power to extend the period mentioned in subsection (6). We were talking about the fact that subsection (6) extends the period. I am trying to find out if we are delegating to the commission that right to extend that has been exercised by Parliament. In other words, you are not going to have to come back, because the commission is going to do the job you are now asking Parliament to do. Is that correct?

Mr. Hawkes: The notion of an affirmative resolution in Parliament is a simpler notion than putting an amendment through Parliament, with all of the stages involved in that. If you could come forward with an affirmative resolution that provided for parliamentary control of the extension, but in a simpler way, we would not have to go through all of the stages.

Senator Frith: I was going to come to the affirmative resolution question, but what do you say that means? Whatever right this gives to the commission, it is subject to the approval of the Governor in Council, which is the cabinet.

Mr. Hawkes: And then Parliament.

Senator Frith: In what way? In other words, it would not take effect unless approved by Parliament.

Mr. Hawkes: That is correct.

Senator Frith: That helps me with my first question, but I do want to know, so that we have it completely on the record, whether the commission now has any right of extending.

Mr. Hawkes: No.

Senator Frith: None?

Mr. Hawkes: None.

Senator Frith: So what we are doing is giving it the right to extend the period, subject to cabinet approval and subject to parliamentary approval, and this will not take effect until it gets both approvals.

Mr. Hawkes: If we pass this amendment, then they will have the right, on a date to be named in 1990, to issue the cheques on this basis. The power would exist for the commission to go to the Governor in Council and then to Parliament on the basis of the affirmative resolution to get that right for some future period of time.

Senator Frith: The right that the commission is being given here is to extend—that is the word that is being used. It states:

> The Commission may . . . extend the period mentioned in subsection (6).

That means that next year the commission will be able to make the extension. Right now the commission cannot give the extension; you have to come to Parliament.

Mr. Hawkes: That is correct. Right now we would have to move an amendment to the act.

Senator Frith: And what you want to do is give the commission the power to do that. So if you come and see us next year, you or your successor will be here because the commission has extended it, but that will not take effect until cabinet has approved it and Parliament has approved it.

So if you or your successor came here next year, you would be coming here to ask us, in effect, to ratify what the commission had done.

Mr. Hawkes: What the commission has asked for in the form of—

Senator Frith: In terms of an extension.

Mr. Hawkes: Yes, but Parliament would control that.

Senator Frith: So unless you or your successor came here, it would not take effect, even though the commission had made that decision. Is that correct?

Mr. Hawkes: That is correct.

The Chairman: Honourable senators, if there are no further questions, shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall the title carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Chairman: Honourable senators, I want to thank Mr. Hawkes for appearing before the Committee of the Whole. This is Mr. Hawkes' first appearance before a Committee of the Whole in the Senate.

Mr. Hawkes: I hope that on any future occasion I shall be given the same courtesy as I have been given today. It has been an interesting experience, and I thank honourable senators.

[Senator Frith.]

The Hon. the Speaker *pro tempore:* Honourable senators, the sitting of the Senate is resumed.

REPORT OF COMMITTEE OF THE WHOLE

Hon. Rhéal Bélisle: Honourable senators, the Committee of the Whole, to which was referred Bill C-158, to amend the Unemployment Insurance Act, 1971, has examined the said bill and has directed me to report the same to the Senate without amendment.

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave, later this day.

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

Hon. Senators: Agreed.

On motion of Senator Doody, with leave of the Senate and notwithstanding rule 45(1)(*b*), bill placed on the Orders of the Day for third reading later this day.

• (1120)

BROADCASTING BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming the debate on the motion of the Honourable Senator Bazin, seconded by the Honourable Senator Bolduc, for the second reading of the Bill C-136, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, like most, if not all, Canadians, I am very conscious of the importance of broadcasting to our country. As Senator Bazin pointed out yesterday, it is important in all countries; but I do not think we are exaggerating its importance in Canada, and I do not think he was exaggerating its importance in Canada when he outlined the significant role that broadcasting has played in the development of our country. Our country is the second largest in the world and it is populated thinly, but in areas that are not only entitled to have broadcasting services but, in fact, require them for the purpose of holding the country together.

All my life I have had a peripheral role in broadcasting. I have not had it as a central theme of my life, as, for example, Senator Finlay MacDonald has, but I started in broadcasting at a young age. I was at Parkdale Collegiate where there was an active music program, and in my first form, as it was then called rather than Grade 9, Dr. Leslie Bell had a program for a mixed choir on the CBC. This would have taken place in 1937 or 1938, 50 years ago—no comment, please!

Senator Doody: You are young!

Senator Frith: I had been recruited, along with a friend of mine who was a tenor, I being a bass, to sing in that choir. Every Saturday night we trooped—

Senator Flynn: Give us a sample!

Senator Frith: Yes, later, on demand. As Bob Muir used to say, "I happen to have my music, but not really for that." Anyway, every Saturday night for a season we used to troop down to where the CBC studios were then, which was on Davenport Road in Toronto in the old Eddy Battery Factory on the top floor, and sing for our supper. It was not a highly paid job, but from that time on, throughout high school, university and Osgoode Hall Law School, I had bookings to sing from time to time; usually they were with the CBC, but also with CFRB, where I was an announcer for a while. So it has always played an important role in my life.

Senator Phillips: Does that give you a conflict of interest?

Senator Frith: Thank you, Senator Phillips. At the moment I am only booked for a performance in the choir at the St. James Anglican Church in Perth on Sunday, and that is an amateur offering—in terms of payment, not in terms of quality of course.

Senator Phillips: Church, you mean, not the singer!

Senator Frith: Both.

Honourable senators, I want to say that Canada has the best broadcasting system in the world. To say "best" one has to have a criterion or criteria. I think the criteria for judging a nation's broadcasting system should be the range of choices and the quality of what is offered. When we consider the choice that most Canadians have in radio and television, I would put it up against that of any country in the world. One is not compelled, for example, to listen to the CBC, but it is there. I consider the CBC FM radio service certainly the best I have ever heard in the world. When you think in terms of television and how many choices most Canadians have, and the stunning range of choices in terms of the kind of material and the quality of material, I believe we can be justly proud of our broadcasting system.

The principle of this bill is, of course, to keep the broadcasting legislation and the guidelines for broadcasting, or the statement of broadcasting policy, consistent with technological and other developments in the field. When one thinks that we do a review of the Bank Act every ten years, it is hardly surprising that a government would want to bring forward reviews of the Broadcasting Act. I do not want to denigrate the importance of the Bank Act in all our lives, but, barring overdrafts and other financial crises, we are not daily exposed to the provisions of the banking policy of the country as frequently and as intimately as we are to the broadcasting policy.

So at second reading, when we are debating the principle of the bill, I see no reason for controversy or serious disagreement, because we support the principle of this bill, which is, as I have said, to keep broadcasting policy and the expression of broadcasting policy in step with developments. I congratulate the government for bringing forward this review, and I think we might even consider making the review of broadcasting policy—that is, the review of the legislation applying to broadcasting—as regularly as we make our review of the Bank Act so that the minute we pass amendments to the Broadcasting Act we will be assured that someone will be out there keeping track of developments and working on a review every five or ten years, whichever seems appropriate. In fact, that is what takes place. These reviews are going on, but we do not acknowledge the fact by keeping our broadcasting policy up to date because within ten years we are going to have to have a review. I think that should be encouraged, and that is why I encourage the government and congratulate it for what it has done here.

It seems to me, honourable senators, that this bill should go to committee quickly. I would have no objection to its going to committee today after giving it second reading, but I do not want to make a commitment on behalf of other senators who may want to speak to it today or later. For myself, I am satisfied to have it go to committee today; however, I do want to spend a moment on some of the matters I hope the committee will look at and explain why I believe that a more than cursory judgment or examination by our committee is justified.

I think if we ask most Canadians what they think the main pillars of Canadian broadcasting are, the answer will be the CRTC—or its predecessors—the CBC, the private broadcasters and the cable system. That does not embrace every aspect of broadcasting in Canada, but there are very few aspects to the broadcasting policy in Canada or broadcasting activity in Canada that are not in some way related to either the CRTC, the CBC, the private broadcasters or the cable systems.

• (1130)

As honourable senators are aware, the CRTC is the current institutional version of its predecessor, the Board of Broadcast Governors. Some senators may have forgotten that, prior to that, the regulator of the broadcasting system in Canada was the CBC. I remember appearing before the old CBC when Davidson Dunton was its chairman, and I believe Senator Finlay MacDonald will remember doing so, as well. Senator MacDonald was an experienced and seasoned broadcaster at the time; I was a tyro lawyer, and, of course, rather impressed, at that young age, with the experience and dash of Finlay MacDonald, Jack Davidson, Murray Brown and their many colleagues, who were sometimes admiringly and warmly known in the business as "the Rat Pack". Senator MacDonald will remember that, although I am sure he is more proud of the association of that name with his group than perhaps others may be with a more recent group to whom the same badge has been applied.

The first of the pillars, then, although not necessarily in this order, is the CRTC, the others being, as I said, the CBC, the private and the public broadcasters. These four institutions do not always have the same interests. In many ways they are competitive, and there are times when, from the point of view of competition, the CBC is looked upon as an enemy of the

private broadcasters. Public broadcasting and private broadcasting interests are not always the same. The CRTC is the regulator and, understandably, is not wildly popular with the regulatees.

Therefore, honourable senators, the reason I believe the committee will have to study this legislation and the reason the Senate cannot do its job unless it does so is that, although I think everybody supports the need for broadcasting policy review and change, all of the institutions that are active in the broadcasting field, although they are often opposed to each other, seem to agree on one thing—they are dissatisfied with this legislation. Because they have differing interests, one can understand that they do not always disagree with it for the same reason; but they all have some complaints about it. I believe we are going to have to listen to those complaints in order to do our job of dealing with this legislation in the Senate.

Let us examine the CRTC first. Over the last month or so I have compiled a rather thick file on this legislation and have included in it some useful summaries. I will spare honourable senators a detailed recitation of this material. I intend only to provide the highlights.

In an article published in the *Montreal Gazette* on September 22, a Mr. William Johnson did pull together a good deal of the material that I had gathered on the views of the CRTC. He makes Senator Bazin's and my point, in the beginning of that article, by saying:

> Canada exists as a country because, in addition to being a community of laws, it is also a community of communications.

Senator Bazin and I agree on that. Mr. Johnson goes on to say, however, that Bill C-136, now before Parliament, threatens the unity of Canada as a community of communications and contains within it the seeds of fragmentation.

Senator LeBlanc: Hear, hear!

Senator Frith: Honourable senators, I point out that I am using that statement to introduce what Mr. Johnson has said about the CRTC. He states:

> The bill attempts to decentralize the decision-making of the one body in this country which ensures the integrity, the consistency, the adequacy, the national purpose of our far-flung system of radio and television: the Canadian Radio-television and Telecommunications Commission (CRTC).

Mr. Johnson points out that the bill, through this decentralization, risks fragmenting and balkanizing what has been, up to the present, an integrated system, and that it would transform the decision-making process in four ways.

First, it abolishes the executive committee of the CRTC, which until now made most of the day-to-day decisions.

Secondly, it abolishes the collegial decision-making process in matters of licensing broadcasters. That is because until now the majority of the full-time members of the CRTC made the decisions, even if a smaller panel of members actually sat at the hearings. I have been involved in cases in which that has happened, as has Senator MacDonald, the process being that a panel, which can vary in size from case to case, hears the application. It then makes its decision and puts forward to a meeting of the entire commission a recommendation. The commission's decision might not be that which was recommended by the panel—although in my experience it usually was so far as I was able to guess.

Thirdly, the bill allows the establishment of regional offices of the CRTC outside the capital, with the requirement by law that the newly created regional commissioners must:

> . . . reside in the region and within such distance of the regional office as is determined by the Governor in Council.

That cannot be considered all bad; I think we would agree that Canadians are constantly struggling with the size of the country in trying to balance regional needs and the need for overall planning. This is not the only piece of legislation in which a government has tried to move the decision-making process to the regions so that Canadians will not always be told that the matter has to be checked with Ottawa. In this way Canadians will not have the feeling that no decisions can be made at the regional level because eventually "City Hall", so to speak, will make the decision some distance away. And after all, Ottawa is some distance away from most Canadians.

However, this aspect of the legislation is questionable here. I believe the CRTC has grave reservations as to whether it is a good idea in this case. The bill before us states that the decisions on licensing can be taken by a panel of three CRTC members, with a vote of two out of three being considered as the decision of the whole panel and of the entire CRTC. I think the committee must ask: Is this carrying regional autonomy too far? It would be carrying that autonomy too far only if it were to result in incoherent cross-country policies; if it were to result in confusion on the part of broadcasters and people interested in the regulatory authority and activity of the CRTC as to the overall policy.

Since an important philosophy, or dynamic, behind the legislation before us is the need for an understanding and application of an overall policy, this proposal—as Mr. Johnson suggests, as I believe and as the commission worries—might be carrying regionalization to the point where it will destroy the overall objective of the bill.

Mr. André Bureau, who is chairman of the CRTC, appeared before the House of Commons committee studying Bill C-136. He is reported to have said:

● (1140)

> The proposed regionalization concept, if adopted, would lead to the balkanization of this commission. This, coupled with binding panel decisions, will erode the consistency, uniformity and quality of the decision-making process.

I believe this concern was addressed in the other place. I say "addressed" rather than "dealt with", because I am not sure how successful they were in solving the problem. However, that is something for the committee to look at. The allegation

is that the new regional commissioners, resident in their regions and backed by regionally hired staff, because they are to have staff there as well, would be considered spokesmen and champions of their region, as perhaps they should be, but they could lose touch with the coherent, country-wide vision of broadcasting that now animates the collegial decision-making of the CRTC members who sit together in the capital before a final decision is made. Thus, inconsistent decisions as between different parts of the country could be taken, as we pointed out.

The rationale for the proposal is justified on the basis that the person who hears the applications should make the decision. That is a very arguable point, but I think it has to be balanced, by the committee and by us when we receive the report from the committee against the need for an overall coherent policy. The media and communications section of the Canadian Bar Association, of which I am a member, argued, when appearing before the parliamentary committee, that the he-who-hears-decides principle as applied in this case faces the difficulty of the actual nature of the deciding process. The association said in its brief, "However, broadcasting proceedings before the commission are not generally of this kind." They were referring to disputes as to fact.

I think Senator MacDonald would agree that when we appeared before the CRTC or the BBG there were never any really big disputes about the facts. For example, there were never disputes as to what frequency was available, what the contours of the frequencies were, what the statistics were in terms of the size of the market, or what the statistics were as to the division of the market, as to the penetration of the market or as to the degree of American penetration. All these factors were important in arriving at a decision, but there were never any real disputes as to such facts.

Again, the Canadian Bar Association said:

> However, broadcasting proceedings before the commission are not generally of this kind. In many if not most cases, the facts are not in dispute; rather, what is in issue is how the commission should respond to these facts in terms of its licensing policy.

That is what the commission usually takes into account, and I think we would all agree that that is what they should take into account. So that is the problem with that principle.

To continue the article, it goes on to say:

> It makes little sense, however, for a body whose function it is to apply Parliament's policy in order to ensure that the cultural identity of a nation is preserved and strengthened.

In other words, it makes little sense to have a he-who-hears-decides approach apply, although that is a most useful approach when it comes to settling facts.

Let me use as an example—and I am sure that this is one with which Senator Bazin is familiar—the court of appeal in legal cases. The tryer of fact is usually not upset by the court of appeal. I cannot say "never", but, if you are appearing before a court of appeal and your ground of appeal is that the trial judge made a mistake in the assessment of the facts, you have a tough row to hoe. You have to show that he made a mistake in the application of law. So, to apply the analogy to this case, the finders of fact should perhaps not be the final deciders, because the real issue is the issue of the application and overall policy. So we would want the committee to look at that issue.

As I said, the government has made some changes to the bill. According to Mr. Johnson, those changes require:

> —that at least two, and not just one, of the members of a panel must be full-time CRTC members, and further requiring that the panel members, before a decision, "shall consult other members of the commission or any officer of the commission for the purpose of ensuring a consistency of interpretation of the broadcasting policy."

However, there is still the question of whether fragmentation remains likely when just two members of the CRTC can make fundamental decisions for the entire CRTC. How signficant is it that members must consult any officer of the commission? For example, how senior must that officer be? So there is one of the pillars of the broadcasting community who has reservations about this bill. I believe that the committee should assure itself, and be able to assure us, that these fundamental concerns—and they are not superficial or technical concerns—of the CRTC are taken into account. We are talking about the principle of the bill and the principle of the amendments when we talk about possible difficulties in the legislation when it comes to implementing an overall, coherent policy.

Honourable senators, I shall touch on the CBC, the private broadcasters and the cable company pillars, if I may call them that, and what their feelings are with regard to this legislation. However, I had spoken to Senator Doody about the possibility of the Senate adjourning at twelve o'clock for purposes of consultation on the legislation before us, including this legislation. I do not see Senator Doody in the chamber, but we had agreed that we would adjourn at about twelve o'clock to come back at one, one thirty or two o'clock.

Senator MacEachen: Two o'clock.

Senator Frith: Shall we take a two-hour break then?

Hon. Orville H. Phillips: Honourable senators, we are moving towards what we hope will be the passage of some legislation and Royal Assent this afternoon. I was hoping that we could come back earlier than two o'clock. I was hoping for one o'clock, but I am willing to meet the honourable senator halfway and say one thirty o'clock.

Senator Frith: I understand the concern raised by Senator Phillips and why he is suggesting an earlier time, but the difficulty is that some of the things we want to talk about relate to the whole question of Royal Assent. I can assure the honourable senator that we will make good use of the additional half hour, and we will try to use that additional half hour for the very purposes he has in mind. So, if we can, I would prefer that we adjourn until two o'clock.

Senator Phillips: Honourable senators, with the assurance just given me, that all legislation that is presently under study will receive Royal Assent this afternoon, I gladly agree.

Senator Frith: I did not hear that assurance. Will the senator who gave such an assurance please rise? Anyway, with the assurance I have given, that we will not waste the two hours and that the time will be directed to the whole question of the legislation before us and the wish to have it completed as soon as possible, I hope that we can adjourn until two o'clock.

On motion of Senator Frith, debate adjourned.

The Senate adjourned until 2 p.m.

At 2 p.m. the sitting of the Senate was resumed.

BUSINESS OF THE SENATE

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, I was speaking to Bill C-136 when I asked that the Senate do adjourn so that we could have a consultation with reference to legislation generally before us now, and particularly Bill C-144. I yield to Senator MacEachen.

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, I do not intend to address Bill C-136, but I should like to make a comment about the status of Bill C-144.

I think it appropriate at this stage to tell our colleagues in the Senate what our attitude on this side is towards Bill C-144, which is now before the standing committee. It is clear to us now that the Senate cannot do a proper job and complete this bill today. The reason is that the committee is still at work and witnesses are being heard this afternoon. There is at least one witness scheduled for tomorrow, and there are other considerations. Certainly, colleagues on my side on the committee have under consideration some proposals they would like to test with the minister, who has agreed to appear again before the committee. There is also the necessity of preparing a report to the Senate from the committee. We do not think it reasonable to attempt to complete that work today.

I must say that I do not know what the plans of the government are for Parliament next week. Accordingly, I do not know whether this work can be continued next week; only the Prime Minister and his colleagues know that.

I wish, however, to advise what we on this side are prepared to do with respect to Bill C-144. We are prepared to have the committee continue its work tomorrow, with a view to affording the committee enough time to report the bill tomorrow. We are prepared to have the consideration of that report completed in the Senate and, indeed, have Royal Assent tomorrow at some point, depending upon the progress that is made in committee. That is what we are prepared to do and, of course, it is up to the government to decide whether it wishes to accept this proposal, which, in turn, will depend on the importance and urgency the government attaches to Bill C-144.

[Senator Phillips.]

BROADCASTING BILL

SECOND READING

On the Order:

> Resuming the debate on the motion of the Honourable Senator Bazin, seconded by the Honourable Senator Bolduc, for the second reading of the Bill C-136, An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication.—(*Honourable Senator Frith*).

Hon. Royce Frith (Deputy Leader of the Opposition): Honourable senators, just to recap where we were in terms of Bill C-136, I had summarized our position on this side and made it clear that, in my view, there is general support for the principle of this bill, that is, the review of broadcasting and radiocommunication legislation. A regular review of this legislation should be encouraged and the government should be congratulated for bringing forward this review. Therefore, the bill should, as far as I am concerned—unless there are other senators who wish to speak to it—be given second reading and adopted in principle today and be referred to the Standing Senate Committee on Transport and Communications.

I then went on to point out that the committee would have its work cut out for it, because there is certainly not agreement among the four pillars of Canadian broadcasting—the CRTC, the CBC, the private broadcasters and the cable industry—on this bill. I did leave the implication that they were all opposed to it, but during the adjournment I ascertained that that is not the case with regard to the cable industry. During the break I had a discussion with Mr. Hind-Smith, the president of the Canadian Cable Television Association, and, speaking for the association, he told me that they are in favour of the legislation's passing. To the extent that in my earlier remarks I gave the impression, as I think I did, that the cable association is opposed to the bill, I was mistaken.

Let us turn now to the CBC. The CBC, publicly, both before the committee and in speeches made on its behalf, has also raised serious reservations about Bill C-136.

I return to my involuntary but very helpful researcher, Mr. Johnson of the *Gazette*, for openers. The question he particularly addressed, and which is also addressed in the comments by those speaking directly on behalf of the CBC, is that of separate French and English committees of the board of directors.

What is established in the bill is that within the CBC the board of directors will have two new language-based standing committees, each with its own chairman. Mr. Johnson's article quotes the bill:

> "The board shall establish a standing committee of directors on English-language broadcasting and a standing committee of directors on French-language broadcasting."

Honourable senators, I believe that is dealt with in clause 43 of the bill.

However, the problem I believe the committee will have to investigate relates to why the law that will govern all broadcasting in this country requires the CBC to subdivide itself along these language lines at the top. One wonders: Was there a problem? I do not remember the Caplan-Sauvageau report dealing with that, although it may have, since it is some time since I looked at it. Was there some problem in communication between the English-speaking and the French-speaking branches of the top management of the CBC? One is tempted to infer from this legislation that there was, and that is somewhat worrying, because we are, after all, talking about communications, and one would like to think that our professional communicators can communicate and that there was no problem at the top requiring this schizophrenic move. Perhaps it was a practical problem requiring the intervention of the state in the structure of the CBC in order to create two boards of directors within the bosom of the overall top management and policy-directing institutions. After all, as we have found in dealing with the CRTC branch of the question, the reasons for the law are really not the pragmatic ones of how to make the CBC work, or how to make the CRTC work, or how to make the private broadcasters work, in the mechanical sense. What we are dealing with in this legislation is ideology and policy and coherent direction.

● (1410)

Does the new law say that, ideologically, we have to view Quebec as a distinct society requiring separate services—as do all francophones—to which they are all entitled? Does that have to be expressed in the management of the CBC? There are, of course, two distinct broadcasting services, both linguistically and culturally. I usually listen to the morning news on the CBC FM network, which I believe is the same as the one on the AM network, in English and French, usually the one at 6 a.m. and the other at 7 a.m., but sometimes one at 7 a.m. and the other at 8 a.m., and I find that I am getting a complete picture. However, on the English network I am certainly not getting a translation of what I heard on the French network, and vice versa. In my view, that is as it should be, because we are not simply looking at a translation service but at cultural expressions of the needs and feelings of the two Canadian societies. So it is not enough to have an authentically different, original French production.

Must we also have an authority structure that reflects distinct societies? Maybe so. I hope not, but that is something the committee will want to examine. To put that another way, the national coherence of the CBC is important. We found that national coherence can exist at the management level and still create two broadcasting services that serve the needs and express the aspirations of the two societies that make up Canada. I hope the committee will find out why that has to extend into the authority of the CBC management structure.

When Mr. Juneau was making his introductory remarks, he raised a viewpoint that I wish to highlight for the committee's consideration. On page 3, he said:

> Bill C-136 was only tabled on June 23rd. It is this Act that will rule broadcasting in the years to come, not task force reports. Therefore, the Bill is crucial and so is the responsibility of this Committee and of Parliament.

In quoting Mr. Juneau, I do not want to take anything away from what the government did with the report of the task force. I think it was necessary and desirable, and I salute them for doing it. The special committee of the House also had hearings and dealt with various aspects of this problem, but, as Mr. Juneau says, what it finally comes down to and what actually speaks and rules is the act itself, and that is what is before us. It was an admittedly difficult task to bring together all the considerations of the various emanations and dimensions of broadcasting, plus the study and recommendation of the task force, plus the hearings of the committee. I take nothing away from the effort that the government was required to put into expressing all that in a bill. However, it does not change the fact that it was only able to do so as recently as June 23 of this year.

There were some comments made about the dropping of the word "enlightenment" from the mandate of the CBC, but I believe that also has been dealt with by the other place. I hope the committee will give us some assurances that that is so, because I had representations, as perhaps many other senators had, on the question of the CBC mandate and the changes that were made.

To quote from Mr. Juneau:

> In an industry heavily influenced by commercial considerations, it is vital that Canada's public broadcaster march to a different drummer. The CBC has an obligation to produce programs that are "sharply, identifiably different from the values of American commercial television" to quote our 1985 document "Let's do it". Our producers must feel free, and indeed encouraged, to explore and experiment, both with program ideas and new technology. As a Corporation we must feel free to take risks.

Honourable senators will have noted from reading the admittedly vast quantity of material available on this question that that consideration and the consideration of American domination has, to repeat the verb, dominated the attitude and response of many experts in the field.

This, of course, brings us to the question of the priority to be given the public channels on the country's cable systems. To a large extent, that is what Mr. Juneau was dealing with. To quote from page 9:

> The Bill declares that "distribution undertakings" should "accord priority to the carriage of Canadian programming services". It does not say that priority should be given to "programming of the national public broadcaster, and of other public broadcasting undertakings". This should be clearly stated for both radio and television. Simply put, it makes little sense to invest large amounts of public money in broadcasting and then not to make sure that this programming gets optimum distribution.

We know that most Canadians watch television through a cable service.

Senator McElman: I wish he had shown such concern in New Brunswick.

Senator Frith: Yes. I mentioned earlier that most places had this service, and I am glad Senator McElman raised that, because it is not the first time he has raised it with me.

Senator McElman: And it won't be the last.

Senator Frith: And I doubt that it will be the last.

I again turn to what Mr. Juneau says is our secondary concern:

> You'll note in our brief that we have drawn attention to a change of wording in the new Bill that could interfere with the broadcasters' time-honoured right to freedom of expression.

And then, going to the last sentence in the top paragraph on page 10:

> In the new Bill, this section appears to have been replaced by much weaker language which provides that "nothing in this Act shall be construed as requiring any person to obtain the approval of the Commission for the broadcasting of any particular program."

Now, what does that replace? It replaces these words:

> The right to freedom of expression and the right of persons to receive programs, subject only to generally applicable statutes and regulations, is unquestionable.

Mr. Juneau goes on to state:

● (1420)

> The problem with the wording is that it would not preclude the possibility of the Commission's intruding into the substance of individual programs. We must always remember that, if such powers exist, someone someday will insist that they be used.

Still dealing with the CBC's concerns, I quote from section 326 of the United States Communications Act, for comparison purposes. That states:

> Nothing in this Act shall be understood or construed to give the Commission

—in that case, the FCC—

> the power of censorship over the radiocommunications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radiocommunication.

The third area of concern Mr. Juneau raised relates to the independence of the CBC. I will not refer to long quotations, but I will refer those honourable senators who are interested in the concerns that he outlines and expands upon to page 11 and on in the introductory remarks he made in the intervention in the other place. Enough for the CBC.

They have other concerns. I am trying to pick out a few of them to illustrate why I think the committee has some work cut out for it in examining this legislation, if it is referred to the committee after it receives second reading.

[Senator Frith.]

I turn now to the third point, and that relates to private broadcasters. So far we have found deep concerns for the CRTC and deep concerns for the CBC; now for the private broadcasters. I shall quote from a letter that I received from the president and chief executive officer of the Canadian Association of Broadcasters. That association, as honourable senators know, is the association that represents the private broadcasters. The letter states:

> The Canadian Association of Broadcasters (CAB) is the national trade association representing the great majority of private over-the-air, advertiser supported radio and television stations in Canada.

It goes on to state:

> Our members are seriously concerned about recent proposed amendments to broadcasting legislation.

Honourable senators must remember that in many cases we have found that where the CBC is against something the private broadcasters are for it, though not always, and vice versa. But here we find that the same concern expressed by the CRTC and by the CBC—not necessarily on the same points, of course—is expressed by the private broadcasters.

Mr. McCabe, the president and chief executive officer of this association, when referring to the report of the legislative committee, goes on to say:

> The Committee's report, however, included none of the crucial amendments requested by the CAB and other interested parties. As well, numerous amending motions at the report stage have been refused and it, therefore, appears that Bill C-136 will be passed by the House of Commons

—this letter was written before it was passed—

> with many deficiencies and inadequacies.

I will skip a few of the paragraphs in the letter and come to the following:

> The CAB finds it particularly disturbing that the proposed Act provides the Governor in Council with substantial directive power

—that is the cabinet, of course—

> over the detailed management and regulation of the broadcasting system and its participants.
>
> The government can take the place of the Canadian Radio-television and Telecommunications Commission (CRTC) in any instance.

I repeat that:

> The government can take the place of the Canadian Radio-television and Telecommunications Commission (CRTC) in any instance.

I continue with the quotation:

> A political process will take the place of a quasi-judicial one in the interpretation of legislation and in the maintenance of the integrity of the broadcasting system. This will severely dilute the independence of the CRTC and provide the opportunity for political interference in the

management of the Canadian broadcasting system. The CAB believes that such extensive control is inappropriate and should be removed from the proposed Act.

This letter was addressed to me, and I believe similar letters were addressed to other honourable senators. It goes on to state:

> Bill C-136 should not receive your approval in its present form without the Senate having the opportunity to address the concerns that private broadcasters have expressed. We firmly believe that this matter requires special attention by you and your colleagues.

I, and I believe other senators, received a number of submissions from other private broadcasters and others engaged in and critically concerned with this broadcasting legislation. I have a few selections. The Humber Valley Broadcasting Company Limited states:

> We are greatly concerned that the proposed Act fails to sufficiently define the structure of the Canadian broadcasting system and the principles that will keep it Canadian.

Another quotation is:

> . . . we submit that it is necessary, in the public interest, to recognize and protect the foundation role of free over-the-air general service broadcasters.

This is a longer letter. That is all I will give to honourable senators as a sample.

British Columbia Television Broadcasting System Ltd. states:

> The effectiveness of the CRTC as a regulator in maintaining a single national broadcasting system, the status of private broadcast services that serve all Canadians vis-à-vis non-broadcast services, and, indeed, the very structure of the Canadian broadcasting system and the principles that keep it Canadian are in question.
>
> Bill C-136 should not receive your approval in its present form without the Senate having the opportunity to address the concerns of private broadcasters and others. We firmly believe that this matter requires special attention by you and your colleagues.

BCTV goes on to state:

> BCTV supports those suggestions and proposes

—that relates to suggestions regarding amended wording—

> that a hearing be held so that private broadcasters may discuss the recommendations with you in person.

Obviously, the way to give that group the opportunity is to refer this bill to committee. I would recommend that it be referred to committee, and I believe I can say that Senator Bazin has that intention.

Then another quotation from the Fraser Valley Broadcasters Ltd.:

> . . . Bill (C-136) completely ignores the urgent needs of radio broadcasters

—this is radio. Remember that the others related to television stations—

> serving non-metropolitan markets across Canada.

This is a radio sample from the non-metropolitan markets. It goes on to state:

> Not only are we ignored, but we are placed in jeopardy by this proposed legislation.
>
> The entire Canadian broadcasting industry will suffer under this new Act and, as the smallest and most vulnerable members of that industry, community radio will suffer dearly.

So this is from a community radio station, which, as honourable senators will remember, is usually non-commercial and is established by a community to serve the community. The board of directors and shareholders are usually members of an association that is incorporated without share capital, the members often being the shareholders, although not always so.

To continue with the quotation from the community broadcasters:

> Between the new Broadcasting Act and rumored changes to the Copyright Act we fear that smaller broadcasting companies will have little choice but to reduce service or sell out to the larger operators.
>
> Please review Bill C-136 carefully should it come before the Senate . . . We hope that finally someone will consider the serious effects on community radio.

That is the end of that quotation and the end of the selection from that.

The last quotation of this kind, honourable senators, is from the other end of the country, Annapolis Valley Radio Limited:

• (1430)

> The Committee's report, however, included none of the crucial amendments requested by CAB and other interested parties.

This is, in effect, a repeat, and I mention it to reinforce the quotations that I have already given from the proposals made by the CAB.

Then, honourable senators, I want to refer to one other item that I am having difficulty categorizing exactly. It is public broadcasting; it is not the CBC, but this is from another very important part of the broadcasting industry, which is the provincial services. I shall quote from a letter that I received from Mr. Ostry. He is the chairman and chief executive officer of TV Ontario, from the province I am happy to try to represent here in the Senate.

> The 1968 Broadcasting Act was passed before provincial educational broadcasters, as such, were born.

That is the old act.

> Therefore, it reads only that "facilities should be provided for educational broadcasting"

—understandably—

> "in the Canadian broadcasting system."

Skipping a few lines, and continuing:

> On average an audience of 6.5 million Canadians watches us

—that is TV Ontario, an educational service—

> once each week. More than 80 per cent of Canadian homes can receive our services.
>
> Collectively the four provincial governments, the federal government, the private sector and our viewers will contribute nearly $200 million to broadcasting and education this year. Together we employ 1500 people, and generate more than 2,000 hours of first-play

—first-play only. Remember that many of these shows are repeated many times, as they ought to be—

> Canadian production in both official languages.
>
> Both the Report of the Task Force on Broadcasting Policy and the Standing Committee on Communications and Culture called for the recognition of provincial educational broadcasters as "integral" to the broadcasting system in a new act. Yet, to my surprise, Bill C-136 does not offer any regard for the recommendations of either of those two studies or the distinctively unique energy educational broadcasters infuse into the system.
>
> Instead, Bill C-136 glances over our very existence and says only that "educational and community programs" should be among those provided by the system. Anyone might do that.

Page 4:

> The effects of this legislation on Canadians cannot be underestimated. This is not just some "other" law. The Broadcast Act is to one of the largest industries in Canada what the criminal code is to the administration of justice. Broadcasting touches the lives of every man, woman, and child from the moment their clock-radio sounds in the morning until they switch off their television at night. Canadians drive to and from work with their car radios on and, for recreation, they jog, ski, bicycle and sun with portables. The average Canadian spends the equivalent of a day each week in front of the television, and children and young people spend more time watching television than they do in school.

Now, on the question of Canadian content on page 5.

> For instance, the Bill is based on the assertion that Canada is today culturally sovereign. The broadcasting system, as defined in Section 3, "... provides ... a public service essential to the maintenance and enhancement of national identity and cultural sovereignty ..." In my mind, cultural sovereignty has a crystal clear meaning:

Here is Mr. Ostry's comment:

> A country might be said to possess cultural sovereignty if its people are supreme in their territory and control the production and distribution of their own books, films, music, plastic and decorative arts; and if its people have liberal access to the expression of their own culture in the languages of their choice and to the imaginative works of their own countrymen and countrywomen; and if its artists of all kinds find support and appreciation at home.
>
> I do not think Canada has the luxury of assuming it is culturally sovereign. Eighty per cent of our publishing industry is in foreign hands. Ninety-seven per cent of films shown in Canada are foreign. Eighty-five per cent of records and tapes are based on imported master tapes. In broadcasting, 71 per cent of all television programs viewed by English-speaking Canadians on television are not Canadian; and the French-language culture is under siege from dubbed programs and a proliferation of English-language services.

If Mr. Ostry is right on the assumption of cultural sovereignty—

> Therefore, Bill C-136 is based on a false premise. If it cannot be redrafted completely, it should be amended.

He closes by saying:

> Canada would benefit greatly from the Senate's serious consideration of this legislation and Senate recommendations for amendments.

Honourable senators, that brings me to the fourth pillar, and, as I mentioned earlier this afternoon, the fourth pillar is the—

Senator Doody: Is it as big as the other ones?

Senator Frith: I think Miss MacDonald would like it to be even bigger, because it is the one that supports the legislation, and that is the cable industry, according to what I am told by Mr. Hind-Smith.

Senator Doody: I was just thinking of Bill C-148. I thought we might be able to get that done before three o'clock.

Senator Frith: I think we might want to hear what the government is going to do about Royal Assent tomorrow, but we will hear from you on that in due course.

I do not have much more. I want to make this very short comment on the fourth pillar, and it is to say that the quotation I have been given from Mr. Hind-Smith is that the Canadian Cable TV Association is pleased with the bill. They do not feel that they need to appear before the committee, and they want the Senate to pass the bill as is. The committee may want to hear their views just the same.

Honourable senators, there are a few other points that I should like the committee to look at, which are of a more general application. I will pick them at random. One is the context of the Caplan-Sauvageau task force report. You will remember that in that report there was a warning against creating, in effect, a North American TV market, an idea embodied in this bill:

> If the rights to show American programs in Canada were retained and exploited by Amercian broadcasters, rather than being sold to Canadian broadcasters, it would be destructive of Canada's broadcasting system, particularly private broadcasting. More important, it would create an even greater imbalance between foreign and

> Canadian programs and reduce Canada's ability to produce programs.

Honourable senators, some of the other concerns I have are as follows: I have mentioned briefly the fact that this legislation was only tabled on June 23 of this year That has raised one other consideration the committee will want to examine; namely, the matter of process. Almost every witness appearing before the legislative committee charged with the study of Bill C-136 complained of this matter of process and the speed with which the act was being pushed. I reaffirm that I am not ignoring the work that was done in preparation for this legislation by the task force and by the House of Commons committee. The point is that all of that work had to be brought together in this bill. One can easily understand that it takes some time to do so, but that does not change the fact that this important legislation has only been tabled before Parliament for approximately three months.

● (1440)

The Canadian Bar Association, in its presentation to the legislative committee, said:

> Given the importance of the new legislation, we are concerned that very little time has been given to interested groups to review the draft language of Bill C-136. In 1985 and 1986, many of the policy issues addressed in the Bill were given a full and comprehensive review as part of the work of the Caplan-Sauvageau Task Force on Broadcasting Policy. In 1987 and 1988, many of these policy issues were reviewed again, by the Standing Committee on Communications and Culture, which commented on these issues in its 4th, 5th, 6th and 15th Reports. However, the actual draft language of Bill C-136 has been available for review by the public for barely two months.

—as it then was.

> It is apparent from just a cursory review that Bill C-136 raised numerous legal questions which require interpretation and clarification. This is hardly surprising, since the Bill represents the first thorough-going revision of the Broadcasting Act in 20 years. Given the all-encompassing nature of the changes to the Act, however, and the likelihood that once enacted, the new Broadcasting Act will be in place for a considerable period of time, it is essential in our view that Parliament provide a full opportunity for each clause to be carefully reviewed.

Honourable senators, I do not want to go into great detail, but there is remaining the whole question of the substance of the bill. It is said that the bill is "technologically neutral", meaning that the legislative process need not be unduly complicated by technological considerations. I think that is probably true, and we have already made the point that the main purpose of this legislation is ideological rather than strictly technological. However, I want to say that even on the technological side we have to be concerned with the definition of "program". We must refer to the committee the fact that Bill C-136 defines "program" to exclude alphanumeric material, effectively categorizing broadcasting undertakings into programming and non-programming. What problem does that create?

First, the alphanumeric material contained within a program transmission, such as the vertical blanking interval in a television signal used for closed captioning, would not be regulated, because, according to the CRTC in its brief to the legislative committee:

> . . . the vertical blanking interval of a television signal can be considered to be separate and apart from the main transmission.

Secondly, a broadcasting undertaking could be deemed to be non-programming, and therefore not regulated by the CRTC, even though it could broadcast movies or television shows during prime time, so long as the undertaking was seen as being predominantly non-programming. On that point, I think it should be drawn to the committee's attention that the recommendation of the all-party unanimous report of the Standing Committee on Communications and Culture in the other place stated that:

> It is essential that the Act clearly categorize all such services as "programming". . .

In that way the providers of such services will be properly licensed as networks and made subject to the appropriate regulatory scrutiny. Under this approach, the commission will be able to exercise jurisdiction over such services. In the committee's view, they should not be excluded from scrutiny by an artificial definition of the word "programming".

Master antennae television, or MATV, may seem like a technical question, but it is less than technical to many residents and owners of condominiums. For years owners of apartment buildings have put up, and wanted the right to put up, master antennae so that they could receive a signal off the air and feed it through to the apartments. Some owners of condominiums who use MATV are concerned that certain provisions in Bill C-136 will consider them as "broadcasting undertakings" and therefore make them subject to regulation by the CRTC. Under the present act, the CRTC issued an exemption order to MATV systems. The minister has stated that the exemption would continue, but this has not allayed the fears of condominium residents, who would prefer to have the exemption written into law.

There is another side to this. If I were a condominium resident, my personal preference would be to have the ability to put up a dish or master antenna to receive these far distant signals in the condominium. These signals, however, may bypass the regulatory system, because the installations bringing in long distance signals are unregulated, which may be of concern to all those interested in the Canadian broadcasting system. This is a hot issue, honourable senators, and it is not just technological. As I say, there are two arguable sides to the question—the freedom to receive broadcasting signals as against the need for regulation of the systems bringing in distant signals that might completely break down the Canadian system.

Proceeding to the highlights, as it appears they will now be placed before the committee, I will turn to the matter of predominantly Canadian programming content. The present act specifies that programming provided by the Canadian broadcasting system should use predominantly Canadian creative and other resources. This has led to some confusion in interpretation, but, by and large, it has come to mean that programming should be "predominantly Canadian". The government had the perfect opportunity in the new act to clear up the confusion by adopting a recommendation of the sixth report of the Standing Committee on Communications and Culture, which called for the clarification of the meaning of "predominantly Canadian" so that it would be obvious that it meant that most of the programming provided should indeed be Canadian.

The government, however, did not do that. It did not even include the concept of "predominantly Canadian" in the original draft of Bill C-136. Only after pressure had been exerted by a great many witnesses, including representatives of the CRTC, did the government put this notion back into the bill. Unfortunately, the language used in the amendment is convoluted and the concept remains unclear. This is a crucial point in terms of this legislation and is one which the committee will, I hope, examine closely.

Tied into that issue is the question of foreign programming. The standing committee said:

> The Act should be drafted so as to define the essential role of distribution undertakings as that of distributing Canadian radio and television services in French and English, both public and private, with first priority given to public sector Canadian services, followed by private Canadian services.

The idea behind this recommendation is that the foreign television services offered should be complementary to, and not in competition with, Canadian television services. The government's response to this reasonable idea was, "distribution undertakings should accord priority to the carriage of Canadian programming services." There is no mention of how to accord priority. You could infer that, as long as Canadian services were offered, any foreign service could also be provided. That would certainly lead to erosion of the quality of conventional Canadian services and potentially to the destruction of certain Canadian pay and specialty services.

● (1450)

We mentioned the question of broadcasting and education. I made some reference to this topic earlier in quoting from Mr. Ostry's letter expressing the concerns of TV Ontario, one of the leading educational broadcasting services in the country, if not the continent.

There are a couple of other important points. The first one is native language broadcasting. The Caplan-Sauvageau task force on broadcasting policy as well as the Standing Committee on Communications and Culture have stated that it would be beneficial to have broadcast programming in representative native languages. Bill C-136 makes no provision for this. We should hear from those interested in native language broadcasting in any event, but more particularly since the Caplan-Sauvageau report has underlined this concern.

Another concern with regard to the CBC and CRTC terms of office is that Bill C-136 would reduce the terms of office of the chairman of the CRTC and the president of the CBC to five years from the current seven years. This has the potential for hampering the abililty of the agencies to operate at arm's length from the government. I am sure that honourable senators will not have trouble following this principle, because even those senators who, I believe, support the appointment of senators for a limited term rather than to age 75 agree that the term must be long enough to provide the kind of independence that is necessary for senators to exercise their legislative function independently, or, to relate that to the CBC and CRTC terms of office, to operate at arm's length from the government. I do not think that the present term of seven years is too long, as it permits the chairman of the CRTC and the president of the CBC to operate at that important arm's-length distance.

So the thrust of Bill C-136 is honourable and worthwhile, but there seem to be many areas which clearly need more examination. I have enunciated some of the areas of examination I believe have to be considered. Apart from the term, I do not feel that the roles of the CBC president and the CRTC chairman are clearly enough defined to reduce the potential, under the bill, for conflicts within the corporation. That is in addition to these two boards that are to be set up within it, one in the English language and the other in the French language.

There is also the question of the process. In an editorial published at the end of August, the *Toronto Star* took the view that the TV-radio bill needs more work. Part of that editorial reads:

> Three influential executives from the Association of Canadian Film and Television Producers, the Canadian Film and Television Association and the Association des Producteurs de Film et de Video du Quebec also worry about the lack of debate. On Monday, they asked Prime Minister Brian Mulroney to "set aside partisan political objectives" that are driving Tory MPs to ram the bill into law with "undue haste."

Honourable senators who have studied this legislation and who have received representations on the bill may have other areas they want to red circle for committee attention. I hope I have illustrated that there are many important areas of controversy still outstanding that require examination by the Senate committee in order for the Senate to do its job. Therefore, I support second reading of this bill and the adoption of the bill in principle, provided it is referred for careful study to the Standing Senate Committee on Transport and Communications.

Senator Flynn: It is three o'clock; you are right on.

Senator Frith: Not quite; it is two minutes after.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, with leave, I move that the bill be read the third time now.

The Hon. the Speaker *pro tempore:* Is leave granted honourable senators?

Senator Frith: No.

Senator Flynn: Then, at the next sitting.

Senator Frith: Honourable senators, I move that the bill be referred to the Standing Senate Committee on Transport and Communications.

Senator Doody: More delays!

Senator Frith: If all you want to do is have bills go through without going to committee, why do you even bother to show up? Stay home and we will do your work.

Senator Flynn: Not with the way you do things.

On motion of Senator Frith, bill referred to the Standing Senate Committee on Transport and Communications.

[*Translation*]

PRIVATE BILL

GRENVILLE AGGREGATE SPECIALTIES LIMITED—MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill S-21, to revive Grenville Aggregate Specialties Limited and to provide for its continuance under the Canada Business Corporations Act, and to acquaint the Senate that they had passed the bill without amendment.

[*English*]

UNEMPLOYMENT INSURANCE ACT, 1971

BILL TO AMEND—THIRD READING

Hon. C. William Doody (Deputy Leader of the Government), moved the third reading of Bill C-158, to amend the Unemployment Insurance Act, 1971.

Motion agreed to and bill read third time and passed.

INTERNATIONAL CENTRE FOR HUMAN RIGHTS AND DEMOCRATIC DEVELOPMENT

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixteenth report of the Standing Senate Committee on Foreign Affairs, (Bill C-147, to establish the International Centre for Human Rights and Democratic Development), presented earlier this day.

Hon. John B. Stewart moved the adoption of the report.

He said: Honourable senators, I should like to say a few words in explanation. First, I should like to call the attention of honourable senators to the fact that there is a misprint in the report. I draw attention to the first page of the report where the Arabic numeral "1" appears and where it states, "*Page 2, clause 6*:". Honourable senators, that should read "*Page 2, clause 4*:". It is correct in the marked copy of the bill which was returned from the committee.

● (1500)

Honourable senators will remember that this morning copies of certain amendments were given to them at their desks. After the committee had completed its work there were consultations, and it was decided that the purpose of the amendments could be achieved in ways different from the ways set forth in the report of the committee. I understand that an honourable senator will move that the report of the committee be amended to replace the original amendments with the new versions of those amendments.

Hon. Richard J. Doyle: Honourable senators, may I ask a question? Senator Stewart spoke of consultations. Would he describe those consultations in a little more detail?

Senator Stewart: I think I can help the honourable senator. He was at the committee and will remember that the spokesmen for the government had difficulty with certain aspects of the amendments proposed in committee, the amendments which, eventually, were adopted by the committee. Subsequent to the adoption of the amendments there were consultations with the office of the Secretary of State for External Affairs, and it is as a result of those consultations that the new version of the amendments has become available. It is not yet before the Senate.

Hon. Gerald Ottenheimer: Honourable senators, I should like to ask Senator Stewart whether, in the amendments that he will be moving, the term "pluralistic political system" is included.

Senator Stewart: The amendments I am moving, honourable senators, are those set forth in the sixteenth report. I have made the report and I have moved its adoption. What I have said is that another senator will propose that the report be amended, and I understand that that is acceptable, for the most part, to the government side.

Hon. C. William Doody (Deputy Leader of the Government): Honourable senators, who is the mover of the amendment?

Hon. Allan J. MacEachen (Leader of the Opposition): Honourable senators, before we go through this exercise, I think it important to establish whether it is intended that this bill will be given Royal Assent today.

Senator Flynn: You have to send it to the House of Commons.

Senator MacEachen: I think it ought to be made clear that the committee report, which was moved by Senator Stewart and adopted, was the committee report subsequent to the report made by the committee.

The office of Secretary of State for External Affairs and the office of the Honourable Monique Landry were in touch with members of the committee and, as a result of discussions, there are before us, as it were, agreed-upon amendments which would replace the original amendments proposed by the committee.

The understanding is that these amendments have been accepted by the government, and it is on that ground that we are prepared to support the bill. If they are not, then, of course, there is no point in sending them forward, and we will continue with the report.

Senator Doody: Honourable senators, if I may, Senator MacEachen is correct. The amendments that have been put forward are the result of negotiations between the committee and the minister involved or responsible, and it is our hope that, if we get this out of here in time today, it will receive favourable treatment in the House of Commons and be back here this afternoon for Royal Assent, which we have planned for about three-thirty, which is really pressing it at this point. In any event, it is our hope to get this through both houses and back here in time for Royal Assent today.

Senator Ottenheimer: Honourable senators, I am somewhat at a loss, so I am in someone's hands who probably has more information than I do—which is not difficult, I hasten to add before anyone else does.

If there has been agreement between the opposition and the government with respect to the deletion of the phrase "pluralistic political system", then I do not wish to speak, but, if there is not, I should like to put on the record, briefly, my views on that criterion.

Senator Doody: Perhaps I can help. My understanding is that there has been some difficulty in reaching a mutual understanding—and I am subject to correction on this—on the phrase "pluralistic political system". It is the hope of the government that the Senate will see fit to accept somewhat different wording. The phrase "democractic society" has been suggested to me. The phrase "pluralistic political system" is, I understand, a western language mode that causes problems in some other states around the world, and they have had some difficulty with it in the past. However, "democratic society" would convey much the same meaning, but would not have the same lack of acceptance or difficulty in other countries.

If honourable senators were agreeable to changing "pluralistic political system" to "democratic society", of course it would be that much more acceptable. However, if the committee feels strongly on that and cannot change it, we shall take the amendments as they are.

Senator MacEachen: Honourable senators, I can throw some light on that point. It is true that there was considerable discussion on that particular point, and one member in particular stated that, if this were removed, he would not be prepared to see any of this go forward and would insist on the original report.

Therefore, I must say that under the present circumstances it is not possible to remove the phrase "pluralistic political system" from the text. That has been thoroughly canvassed and it would not be within my power to agree to an amendment without breaking faith with members of the committee.

Senator Doody: In any event, honourable senators, may I ask the Senate to pass the report, as amended, as quickly as possible?

Senator Molgat: I think we should hear from Senator Ottenheimer.

Senator Ottenheimer: Honourable senators, it is not my intention to speak at length, but I do wish to put on record my own objection to the terminology "pluralistic political system".

As we are all aware, there are areas of the world where there are elections and where there is a one-party system. Obviously, this refers to that situation. Most of those countries are former colonies and had their own indigenous and logical system of development—cultural, social, political or whatever—interrupted by western colonial powers who drew arbitrary boundaries, made arbitrary decisions and interfered in a radical manner with the local development of that society.

No doubt honourable senators opposite, and perhaps on this side, have travelled more extensively in Africa than I have. I have done some travelling in francophone Africa with the AIPLF and more so in anglophone Africa with the Commonwealth Parliamentary Association. I have been in countries where there is a one-party system and I have discussed that with members of Parliament in various African countries. I recall having discussed it with one very distinguished person, Mr. Malecela, a Tanzanian, who was one of the seven eminent persons appointed by the Commonwealth Secretary General along with the Anglican Primate of Canada and five others.

• (1510)

Mr. Malecela was a minister in the Tanzanian government for many years. He was that country's first ambassador to the United Nations. So I use him as an example of a person with whom I have discussed this. I have also discussed it with others in Africa as well.

The point has been made to me—and, while I cannot prove it, it appears reasonable—that in some societies a multi-party system may engender or exacerbate ethnic problems. That leaves me somewhat equivocal on this, because I personally prefer, obviously, a multi-party system; but there are certain countries whose indigenous development has been interrupted by western intrusion, and here we are imposing or making reference to a political system which is largely the product, although not exclusively, of western society. Our political views basically come from Westminster, France and the Continent, and, to me, it appears that it can be interpreted—I do not say it is a fact—as an attempt to impose our political structures on people whose social, cultural and political development have been entirely different. To me, this appears to be the most important criterion. In some of these countries there are nominations and regular elections, and I understand that some nominations are contested and that in many instances incumbents are defeated in nominating conventions.

So there is that area of, for lack of a better term, accountability.

Anyway, I wish to put it on the record that I personally feel the reference to a criterion of a "pluralistic political system" makes it appear that we are attempting to impose upon others what obviously is very good for us, and may be very good in general, but may not be appropriate for all people in all societies at all periods of time.

Senator Stewart: Honourable senators will have noticed that I did not speak at any length on the first motion, the motion for the adoption of the committee report. However, prompted by Senator Ottenheimer's remarks, I should like to say a few things in explanation of the proposed amendments. It is unreasonable to use the word "impose".

Senator Ottenheimer used it at least three times. That is not the intention, I am sure, of the Parliament of Canada. What will happen in the work of this centre is that it will be initiating, encouraging and supporting cooperation between Canada and other countries toward certain ends. Among those ends will be an economic goal, namely, an adequate standard of living. We are not going to impose that. It is going to be encouraged.

The second kind of goal that will be sought will be certain standards in the administration of justice, and I quote:

> The rights of persons not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

I suppose there might be some of us who would be willing to impose that kind of progressive reform if we could, but to impose it is beyond our competence.

The third kind of rights to be encouraged and supported will be political rights, including:

> The rights of freedom of opinion and expression and the right to vote and be elected at periodic, genuine elections in pluralistic political systems.

Really, I think Senator Ottenheimer is being overly sensitive to the reaction that may take place in parts of the world to what is happening here today. I doubt that ambassadors will be recalled, or anything like that.

I want to call the attention of senators to another change. The original bill would have confined the operations of the centre to developing countries, but, if these amendments carry, it will be possible for the centre to support programs and activities for the benefit of countries other than developing countries. Because of that change in scope, it was necessary to make a change with regard to the financing of the centre. The financing that is provided in the bill as it now stands focuses on developing areas. The amendment will add a new subclause in clause 28, which will say that:

> For the purpose of supporting programs and activities for the benefit of countries other than developing countries, the Centre may, in addition to such moneys as may be appropriated by Parliament for that purpose, receive and use moneys provided to it from sources other than the Government of Canada.

The effect of the two amendments is to make the goals of the centre more precise, focused, and explicit, and to allow the centre to work in countries other than developing countries.

There is also the provision for ways in which the centre may receive money to sustain operations in countries other than developing countries. Taken together, the two amendments constitute a complete package. I recommend them to the Senate.

The Hon. the Speaker *pro tempore:* Do I understand that Senator MacEachen will move some amendments?

Senator MacEachen: Yes. I would be pleased to move the amendment that was circulated earlier. If you indicate to me, Your Honour, that I should read it, I will do so. Otherwise I will move the amendment that has been circulated, which is an amendment to clause 4 and to clause 28. Honourable senators should have a copy. If the amendment motion is put, I might want to say just a word or two about it.

The Hon. the Speaker *pro tempore:* Honourable senators, copies of the amendment were circulated this morning. Should I dispense?

Some Hon. Senators: Dispense.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, to adopt the report, as amended?

Hon. Senators: Agreed.

Senator MacEachen: Honourable senators, I have just a word or two about the purpose of the committee in amending clause 4. The objects of the centre are outlined in clause 4 and they are intended to give effect to the rights and freedoms enshrined in the International Bill of Rights. The International Bill of Rights, in turn, is based upon a number of international covenants.

There were two thoughts that certainly came to my mind and possibly to the minds of other members of the committee. These were, first, that the objects were not spelled out sufficiently, and the amendment is an effort to spell out more clearly the objects which otherwise would be found in the international covenants. That was the first thought, and the second thought was that the international covenants cited in the bill are undoubtedly widely accepted throughout the world, but widely ignored by many countries, as we all know. There is lip service to these covenants in many countries, and it was my thought that additional credibility would be given to our statement of objects if they were specified.

● (1520)

All the specifications, as I understand them, are drawn from the international documents, with the exception of "pluralistic political systems."

I may point out that that expression is less extreme from one point of view than a feeling that a number of the members of the committee had that there ought not to be any hesitation in possibly saying in the law that we are interested in promoting Canadian-style human rights and democracy. In other words,

what would be the objection to giving an expression to values that we hold in Canada?

It was somewhat disconcerting to me that the minister said in her presentation that it was certainly not the intention of the centre to promote Canadian-style democracy and human rights. That provoked the thought in my mind: whose democracy and human rights, if not Canada's?

We dropped the thought because of some of the considerations which Senator Ottenheimer has raised, but it seems to me that it would not be objectionable to nudge slightly, incrementally, the statement of objects to include the thought that, from our point of view, genuine and periodic elections could be best attained in a pluralistic political system. It is not our intention; it is a thought. What is wrong about exposing that thought in other countries? We know it is resisted, because there are those who believe that democracy can be achieved in a single-party system, as the Soviet Union has attested over the years. Maybe the Soviets themselves are now understanding that pluralism has to be introduced in their society. I think it is a gentle nudge. Certain members of the committee want that to have been a more definite and aggressive nudge, but it is very gentle.

The other point that I think honourable senators ought to be aware of is that the promotion of these objects by the centre is financed from funds provided from the ODA budget, but the financing pertains only to developing countries. There is no funding provided, for example, for any activity in non-developing countries—for example, Poland. An activity by the centre in Poland would not be eligible for funding by the centre, because there are no funds provided, governmentally, for such activities. For example, if the centre wished to support the activities of Solidarity and the emerging pluralism in Poland, there would be no funds available from the centre.

But that is not to say that the centre could not go out and collect funds and find funds elsewhere to assist an effort in Poland or South Africa. That is why, honourable senators, an amendment was made to clause 28 not to appropriate funds for countries other than developing countries. This was to acknowledge and maybe draw attention to the desirability that funds might be appropriated by Parliament to the centre for that purpose. The centre could then receive and use money provided to it from sources other than the Government of Canada.

Those are the points that were raised that led to these amendments. A very interesting sentence is contained in the amendment to clause 4, which states that a major object will be to help reduce the wide gap that sometimes exists between the formal adherence of states to international human rights agreements and the actual human rights practices in states.

It seems to me that it ought to be at least a Canadian objective to disclose the reality in the world that there are states whose spokesmen rise in the international fora to give lip service to human rights, but whose performance falls far short of the actual doctrine in the covenants. What that sentence says is that we know that the discrepancy exists, and maybe it would be a good thing for the centre to try to reduce that by its programs.

Honourable senators, it was an interesting discussion in the committee with wide participation. We are not entirely satisfied that we have produced an ideal bill, but we attempted at least to put into it some of our own thinking.

I should acknowledge that I do appreciate that the office of the Secretary of State for External Affairs was sensitive to the views of the Senate committee and did go a long way to accommodate it, as we accommodated the reservations which the minister's office had about our original report.

Motion agreed to and report adopted.

THIRD READING

The Hon. the Speaker *pro tempore:* I understand that the report has already been adopted, as amended, so I shall put the question: When shall this bill, as amended, be read the third time?

Hon. C. William Doody (Deputy Leader of the Government): With leave, now.

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* With leave of the Senate and notwithstanding rule 45(1)(*b*), it is moved by the Honourable Senator Doody, seconded by the Honourable Senator Flynn, that this bill, as amended, be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill, as amended, read the third time and passed.

• (1530)

ROYAL ASSENT BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming the debate on the motion of the Honourable Senator Doody, seconded by the Honourable Senator Phillips, for the second reading of the Bill S-19, An Act respecting the declaration of Royal Assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(*Honourable Senator MacEachen, P.C.*).

Hon. Orville H. Phillips: Are you going to let Bill S-19 die?

Hon. Royce Frith (Deputy Leader of the Opposition): I don't know why. Is there going to be an election called tomorrow?

Hon. Allan J. MacEachen (Leader of the Opposition): We will deal with it next week.

Hon. Jacques Flynn: You will have to wait until next week.

Senator Frith: I will consider that. If you do Bill C-144 and have Royal Assent tomorrow, I will definitely consider speaking on that bill, if you want me to.

Order stands.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixty-sixth report of the Standing Committee on Internal Economy, Budgets and Administration (Senators' Guidelines), presented in the Senate on September 29, 1988.

Hon. Roméo LeBlanc moved the adoption of the report.

Motion agreed to and report adopted.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTY-FOURTH REPORT OF COMMITTEE ADOPTED

On the Order:

> Resuming the debate on the motion of the Honourable Senator LeBlanc, P.C. (*Beauséjour*), seconded by the Honourable Senator Haidasz, P.C., for the adoption of the Sixty-Fourth Report of the Standing Committee on Internal Economy, Budgets and Administration (allegations against Senator Argue, P.C.), presented in the Senate on 14th September, 1988.—(*Honourable Senator Argue, P.C.*).

Hon. Hazen Argue: Honourable senators, I wish to speak to this motion. My position on the allegations made against me has been set out on two occasions in some detail: first, on the question of privilege that I raised in the Senate on July 5, 1988, as recorded on pages 3789 and 3790 of the Senate *Hansard*; and, second, in Part II of the sixty-fourth report of the Committee on Internal Economy, Budgets and Administration, tabled in the Senate on September 14, 1988.

At this time I wish to thank the committee for including Part II in its sixty-fourth report, which is the explanation I provided on certain items. There are elements in the report with which I am not in agreement; however, I do not believe any useful purpose would be served by dealing with them at this time.

I wish to reiterate that at no time have I knowingly abused my privileges as a senator, and at no time has it been suggested that I received any personal benefit from the use of Senate services or supplies. When the subcommittee recommended that certain sums of money be paid, I accepted their recommendation. Those amounts have been paid. In fact, some payments were made by me before the subcommittee was struck.

I agree that the rules and procedures governing the use of Senate services and supplies should be reviewed. I hope that such a review will produce clearer rules and procedures in this area. I believe it would be of benefit to all members of the Senate to clarify these matters so that in the future there will be clear rules and procedures.

Finally, I deeply regret that the committee believes my conduct has reflected adversely on the Senate. This is not something I ever desired or intended to happen.

The Hon. the Speaker *pro tempore:* It is moved by the Honourable Senator LeBlanc, seconded by the Honourable Senator Denis, that this report be adopted. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. C. William Doody (Deputy Leader of the Government): I move that all remaining orders stand, except if any honourable senator wishes to speak to any of the items at this time.

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

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore:* May we have the same motion for Inquiries? Is it agreed?

Hon. Senators: Agreed.

Hon. Eymard G. Corbin: Honourable senators, with respect to Inquiries, I do not see Senator Marshall rising; therefore, I must conclude that the writ is not prepared to be dropped soon.

The Hon. the Speaker *pro tempore:* Is it your pleasure, honourable senators, that the Senate do now adjourn during pleasure until the call of the bell at approximately four o'clock?

Hon. Senators: Agreed.

The Senate adjourned during pleasure.

At 5.40 the sitting of the Senate was resumed.

INTERNATIONAL CENTRE FOR HUMAN RIGHTS AND DEMOCRATIC DEVELOPMENT BILL

CONCURRENCE BY COMMONS IN SENATE AMENDMENTS

The Hon. the Speaker *pro tempore* 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-147, to establish the International Centre for Human Rights and Democratic Development.

ROYAL ASSENT

NOTICE

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

30 September 1988

Sir,

I have the honour to inform you that the Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 30th day of September, 1988, at 5.45 p.m., for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,
Anthony P. Smyth
Deputy Secretary, Policy and Program

The Honourable
The Speaker of the Senate
Ottawa

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Claire L'Heureux-Dubé, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy 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 Deputy Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Unemployment Insurance Act, 1971 (*Bill C-158, Chapter 63, 1988*).

An Act to establish the International Centre for Human Rights and Democratic Development (*Bill C-147, Chapter 64, 1988*).

An Act to revive Grenville Aggregate Specialties Limited and to provide for its continuance under the Canada Business Corporations Act (*Bill S-21*).

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Monday, October 3, 1988, at 2 p.m.

The Thirty-third Parliament was dissolved by Proclamation of Her Excellency the Governor General on Saturday, October 1, 1988

APPENDIX

(See p. 4540)

LEGAL AND CONSTITUTIONAL AFFAIRS

THIRTY-FOURTH REPORT OF STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

FRIDAY, September 30, 1988

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-FOURTH REPORT

Your Committee, was authorized by the Senate on 19th December, 1986, to examine and report upon the First Report of the French Constitutional Drafting Committee, tabled in the Senate on 17th December, 1986 (Sessional Paper No. 332-159).

On 16th July, 1988, your Committee retained the services of the Honourable Jean Le Moyne and asked him for his opinion on the language used in the First Report of the French Constitutional Drafting Committee.

The following report was presented to your Committee on 31st August, 1988. The said report with which your Committee concurs, is as follows:

REPORT ON THE DRAFT OFFICIAL FRENCH VERSION OF CERTAIN CONSTITUTIONAL ACTS

FOREWORD

In accordance with the mandate entrusted to me, I have examined, strictly from a linguistic perspective, the First report of the French Constitutional Drafting Committee responsible for providing the Minister of Justice with a draft official French version of certain constitutional Acts.

I am honoured to table my report to the Standing Senate Committee on Legal and Constitutional Affairs which is chaired by the Honourable Senator Joan Neiman.

CHRONOLOGY OF EVENTS

1. July 1984: establishment of the French Constitutional Drafting Committee by the Minister of Justice, pursuant to section 55 of the *Constitution Act, 1982*.

2. November 18, 1986: the said Committee tabled its First Report to the Minister of Justice.

3. December 17, 1986: The First Report was tabled in the Senate.

4. December 19, 1986: the First Report was referred for consideration to the Standing Senate Committee on Legal and Constitutional Affairs, chaired by Senator Joan Neiman.

5. March 31, 1987: the Honourable Senator Joan Neiman moved that membership on her committee be increased to 15.

6. May 27, 1987: the name of Senator Jean Le Moyne was added to the roster, bringing the membership to 15.

7. June 11, 1987: during a meeting of the Committee, a decision was made to create a five-member sub-committee to examine the First Report of the French Constitutional Drafting Committee.

8. June 18, 1987: the sub-committee met for the first (and only) time. In attendance were the Honourable Senators Jacques Flynn, Nathan Nurgitz, Michel Cogger and Jean Le Moyne, along with Messrs Jules Brière, the present chairman of the Committee and R. Bergeron, Q.C., from the Department of Justice, and Mr. Jacques Rousseau from the Library of Parliament. During the meeting, Senator Jacques Flynn was elected to the Chair. Senator Arthur Tremblay was unable to attend.

9. June 28, 1988: a meeting took place between the Honourable Senators Flynn and Tremblay, the Honourable Jean Le Moyne, Mr. Robert Bergeron, Q.C. and Mr. Alexandre Covacs from the Department of Justice and the members of the Constitutional Drafting Committee.

10. July 16, 1988: the Standing Senate Committee on Legal and Constitutional Affairs retained the services of the Honourable Jean Le Moyne and asked him for his opinion on the language used in the First Report of the French Constitutional Drafting Committee.

11. August 31, 1988: the Honourable Jean Le Moyne tabled his report to the Standing Committee on Legal and Constitutional Affairs.

OVERALL IMPRESSIONS

I was apprised of the First Report of the French Constitutional Drafting Committee on June 18, 1987 while still a Senator, that is at the first meeting of the sub-committee, as noted in the chronology of events. The sub-committee was scheduled to meet again in the fall and to undertake at that time a study of the report, based on our individual annotated copies. However, no further meetings were convened and I did not hear anything more about the report until I reached retirement age on February 17 last.

In the interim, I had read the report several times and begun to annotate it. How fortunate for me, since the contract I entered into with the Standing Committee on Legal and Constitutional Affairs contained deadlines best measured in hours rather than days. I had already completed the most important part of my work, and could thus devote the bulk, so to speak, of my official "time" to satisfying my curiosity about linguistic details. Circumstances, however, precluded my going over the draft version with a fine-tooth comb.

Parliament Hill would be a heavenly place if bills, reports, speeches, press releases and other such documents were written in as polished a fashion as the constitutional acts under consideration. That these texts were well written came as no surprise, given the reputation of the draftsmen and the exceptional competence of Mr. Alexandre Covacs, a legal linguist with the Department of Justice. My admiration for these draftsmen increases when I consider the linguistic and historical restrictions with which they had to contend. As a writer who has taken on the arduous task of revision more than once, I know that such restrictions and limitations are difficult to deal with.

The drafting committee has provided clear explanations in its foreword and notes. After reading the text carefully, one should, therefore, defer to its authority.

The text under consideration is not a translation, but rather an example of parallel drafting. What was originally conceived and drafted in English has been reworked and expressed in French in a style that, while technically accurate, reflects nevertheless the genius of the language. The result is an example of genuine bilingualism.

Which brings me to an insoluble problem. My mandate is clear, namely to give my opinion only of the French version of the revised acts. However, is it possible to separate the two versions to the point where style and substance, letter and spirit, are impervious to one another? Surely not, since constitutional law is expressed in clear terms. It enjoys its own language, indeed it is a language onto its own. On reading a piece of legislation, the layman can say with relative certainty whether that act is well written or, conversely, poorly written. However, it is always possible for some legal or constitutional subtlety to escape his understanding. The uninitiated cannot claim to have the technical expertise to appreciate every little nuance. In a field where the most subtle details are the norm, my comments suffer from literary vagueness. Hardly surprising, but yet no less perturbing to me.

OBSERVATIONS

Once again, the French in the first Report of the French Constitutional Drafting Committee seems to me to be impeccable. In the following pages I will simply be commenting on terms, expressions and structures that struck me because they do not jibe with my own idiosyncrasies or because they are unfamiliar to me.

At the meeting of June 28, 1988 with the Honourable Senators Flynn and Tremblay, Messrs Bergeron and Covacs noted that the Constitutional Drafting Committee would find it extremely helpful to have me comment spontaneously on the French version of the text. In other words, they wanted me to give the English text no more than a passing glance. Thus I have tried to keep my observations simple.

To enable the reader to refer to the text as easily as possible, I have usually indicated only the page and the line, with the paragraph indicated where the lines are not numbered.

p. 3a, para. 2, line 4
p. 3a, para. 3, line 1

"experts" -- slight doubt about this word. My instinct would have been to write "spécialistes". Would "autorités" have been possible? Is the meaning commonly given to "expert" really accurate? (cf. Daviault)

p. 8a, line 9

"à" -- three times in succession (awkward but probably unavoidable, since it appears in section 55 of the *Constitution Act, 1982*)

p. 9, Schedule (title):

"Actualisation de la Constitution" -- as a translation for "Modernization" this seems forced to me, because of the (French) word's philosophical connotation (to pass from potentially to act). Even the *Petit Robert*, whose relaxed attitude is so useful in tight semantic corners, does not give "modernisation" as one of the meanings for "actualisation"; nor does *Harrap's* ("Actualiser", but not "actualisation"), the *Larousse Encyclopédique* or the *Dictionnaire encyclopédique Quillet*. I would settle for "Modernisation" (and "moderniser"), along with *Littré* and its fellows: "donner un caractère moderne, une tournure moderne" (*Littré*). *Littré* even includes "moderner" ("to modern"), "moderné" ("moderned") (architectural terms): "restaurer pour de nouveaux usages, et dans un goût moderne, un ancien édifice", "un édifice moderné" !!! "Actualisation" (and "actuation" -- psych. and mech.) also has the meaning of making effective; in psychoanalysis, the act of reliving a scene from the past, a trauma of some kind, for example; projection of fantasies; etc. I vote for "modernisation".

p.13a

"assemblée législative" (see below same page)

p.17, lines 28, 29
p. 65, lines 19, 20
p. 68, lines 8, 9
p. 69, line 2
p. 86, line 2
p. 90, lines 1, 2
p. 95, line 2

"réunis en Parlement" -- I would like to be reassured about this expression (I did not have the needed instruments to check into it myself).

p. 17, lines 34, 35

"également" -- from yokels to U-speakers, everybody misuses this adverb; but the fact that the error is so common does not in my view justify a usage that flouts logic. We must be discriminating, or we end up very quickly with nonsense like "Madeleine se tenait également debout près du bar" ("Madeleine was standing equally beside the bar"), or "Étaient également présents, outre le défunt ... " ("were equally present, besides the deceased ... "). One stands or one sits, one is present or one is not present. Exactly what meaning is intended here for "également"? I suggest "aussi", "de la même façon", "de même", "en outre", "de façon égale", depending on the case.

Robert, Grévisse and other reference works rely too heavily on the idea of precedents. They treat French grammar (gravely ill for a long time now) as though it were the Common Law. It was all very well for Proust and his ilk to use "surtout que" and "malgré que"; I would never do so. I would not want to find myself obliged to write (seriously), as Raoul Ponchon does:

"Malgré qu'il pleuve, je pars à Gif, nous deux mon chien, surtout qu'il est malade, le pauvre Azor ... ".

p. 27, line 9

The return of "également" -- could it not be changed to "choisi lui aussi ... " or "choisi de même parmi les députés"?

p. 33, line 1

And again "également" -- why not the holy simplicity of "le sont aussi ... "?

p. 19, line 21

"législatures"-- the words "législature" and "assemblée législative" recur frequently, sometimes with a capital "L" and "A", sometimes without, depending on the context. I did not of course expect to find anything suspicious about this, but since there is on-going general confusion about "legislature" and "assemblée législative", I am including a list of all the instances where these expressions appear:

p. 13 a, lines 28, 30, 31
p. 21, lines 36
p. 26 lines 26
p. 31, lines 16, 35
p. 32, lines 12, 15, 23, 32
p. 33, lines, 20. 29, 33, 39, 43
p. 34, lines, 1, 6, 9, 11, 30, 35, 37
p. 35, lines, 7, 9, 10, 15, 20, 27
p. 36, lines 3, 7, 12, 32, 35
p. 37, line 7
p. 38, lines, 19, 25, 27
p. 40, lines, 15, 36
p. 41, lines, 23, 25
p. 42, lines, 39, 42
p. 45, line, 10
p. 46, line, 42
p. 47, line, 1
p. 48, lines, 6, 20, 41
p. 49, lines, 6, 9. 25
p. 50, lines, 15, 20, 23
p. 51, line, 14
p. 52, line, 21
p. 59, no. 8
p. 62, lines, 29, 34

p. 63, lines, 22, 25
p. 72, line, 14
p. 74, line, 34
p. 75, line, 8
p. 76, line, 14
p. 82, lines, 7, 35, 38
p. 88, line, 30
p. 90, lines, 22, 25
p. 92, line, 21
p. 95, line,. 24

p. 27, lines 11, 12

"46. Le président dirige les débats de la Chambre des communes." English text: "The Speaker shall preside at all Meetings of the House of Commons."

In a letter to Senator Joan Neiman, dated April 21, 1987 (see Appendix A), the Honourable Eugene Forsey

(1) deplores the absence of anglophone draftsmen versed in the British Common Law on the Drafting Committee.

It should be borne in mind that the Committee's mandate was not to translate from the English but rather to draft in French. Furthermore, the francophone draftsmen had the benefit of the advice of English-speaking jurists colleagues of Mr. Bergeron at the Department of Justice. I would venture to recommend that the Sub-committee hear on this matter Mr. Jules Brière, Chairman of the Committee, and if need be Messrs Bergeron and Covacs. It would in any case be very interesting to see how the two groups of draftsmen proceed, from start to finish. There is no limit to what is worth knowing about the originality of a process that the Swiss (Mr Bergeron tells me) are seriously thinking of imitating.

(2) Mr Forsey also expresses concern about the passage cited above. Wrongly, I must say. To put everyone's mind at rest, here are the relevant definitions from Littré:

"*Président*: celui qui préside une assemblée, une réunion, un tribunal, et dirige les discussions, les débats, etc."
"*Présider*: occuper le premier rang dans une assemblée, avec droit d'y maintenir l'ordre et d'en régler la discussion."

"To preside" thus definitely means to direct the debate or discussion, while of course abstaining from any partisan interference. It is not for nothing that we call one Speaker or one chairman good and another unsatisfactory.

p. 28, lines 8, 16

"le recensement en cause" -- allusion to "chaque recensement décennal", p. 27, 11. 34, 35. A person may be "en cause" (party to a suit, incriminated - *Larousse, Quillet*), but a census? Can a census be implicated, incriminated, guilty? This use of "en cause" makes me think of the abuse of "impliquer" and "implication". For example: "s'impliquer dans l'action politique" ("implicated ((rather than "involved")) in politics"), "une constante implication dans les oeuvres de bienfaisance" ("on-going implication ((rather than "involvement")) in good works"). The legal connotation of "en cause" and "implication" is very strong. Moreover, "implication" is also (not equally'!) a term in logic. For a census to be "en cause" we would have to break through quite a thick wall of meaning.The phase could read instead, "le dernier recensement", or "ledit..." or "le susdit recensement", or "le recensement le plus récent", or "le dernier recensement décennal", any of which would protect the poor census from the threat of imprisonment ...

p. 30, line 40
p. 34, line 24

"régistraires" -- just for the fun of it: in ch. VII of *Pantagruel*, where Rabelais is going through the catalogue of the wonderful books in the Library of Saint-Victor: "Les pétarrades des bullistes, copistes, scripteurs, abbréviateurs, référendaires et dataires, compillées par Regis""The Insertions of bullists, copyists, writers, epitomizers, notaries, and reporters, compiled by Regis"). Before I checked, I could have sworn that "les régistraires" also had their crackerades ...

p. 35, line 10

"législation" -- by this is meant "the Law" as a whole rather than one piece of legislation, presumably? This word is universally misused.

p. 40, lines 15. 16 (see Appendix B, letter from the Honourable Eugene Forsey to Senator Joan Neiman, dated April 5, 1987)

"93. *In and for each Province* the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:- ..."

"93. La législature *de chaque province a, dans les limites et pour les besoins de celle-ci, compétence exclusive* pour légiférer en matière d'éducation, compte tenu des dispositions suivantes: ... "

I remain convinced that the French version of this passage is perfectly correct, which Mr Forsey himself acknowledges at the end of his letter of April 21, while unfortunately at the same time referring to the French as "the new translation".

pp. 40, 40a, line 29 and Explanatory Note -- (just for the fun of it)

"syndic" -- *Littré*: "Celui qui est élu pour prendre soin des intérêts d'un corps (*body*), d'une réunion de créanciers, etc.".

p. 72a, Explanatory Note, line 6

"la province en cause" -- no doubt it will have to be imprisoned along with the census on p. 28 of the Report of the French Constitutional Drafting Committee and p. 13 (? 11?) of this report. One might, with the approval of *Littré*, dare to substitute "intéressée" or "concernée" or "touchée", although these past participles are not strictly honourable. But in no language are all usages strictly legitimate. "En question" might be a substitute, or if necessary an explanatory periphrase might be inserted. "En cause" still sticks in my gorge.

JACQUES FLYNN
Acting Chairman

APPENDIX (A)

Room 677-F
The Senate,
April 21, 1987

Dear Senator,

I have now secured a copy of the First report of the French Constitutional Drafting Committee, and there are two things about it that make me uneasy, and make me thankful that your Committee is going to look it over.

First, there is no English-speaking person on the Committee. Of course, its job was to produce *French* versions, and that obviously meant that the members should be heavily French. But the job was also to produce French versions of Acts written in English, and it seems to me that it would have been wise to have one or two people, proficient in French, yes, but also familiar with English idiom and English legal terms in a way that few French-speaking people are likely to be. I'll give an example in a moment.

Second, and perhaps more important: I wonder if any of the Committee have had a training in the English Comon Law. It ought to be possible to find Common Law lawyers who know French well. There must be many who have graduated from McGill, and, I suppose, the University of Ottawa.

As an example of the pitfalls which measures of this sort might avoid, I call your attention to the French translation of section 46 of the Constitution Act, 1867: "Le président *dirige* les *débats* de la Chambre des communes". That seems to me a dangerously inaccurate translation of: "The Speaker shall preside at all Meetings of the House of Commons". The English says *nothing* about the *debates*, and it certainly does not say that the Speaker shall «direct» the debates.

Now this may reflect only my limited knowledge of French. Perhaps it is a perfectly good translation, even the ideal translation. But I think it may need looking at.

There may well be other examples. I am, in any event, not competent to say much about such matters. But someone who is ought to go over the whole thing very carefully. Failure to do this might lead to some curious tangles, where two versions, equally authoritative, say different things.

Yours sincerely,

Eugene Forsey

The new translation seems to look after the point I raised about section 93 of the Act of 1867.

APPENDIX (B)

Room 277-F
The Senate
April 5, 1987

Dear Senator:

I see, by the Senate Hansard of March 31, that your Committee is to report on the first report of the French Constitutional Drafting Committee.

I hope it will look at section 93 of the Act of 1867.

In the Revised Statutes 1970, it begins, in French: "Dans chaque province..."; as a translation of "In and for each province". In the old BNA Act and Selected Statutes, it was always: "Dans et pour chaque province..."; as it should be.

I called attention to this when I was in the Senate, but without result.

Henry Hicks, and the late Alex Gorry, emphazied the possible importance of "for each province", and, therefore of "pour chaque province". Ask Henry! (Ask yourself!)

Sincerely,

Eugene Forsey

ABBREVIATIONS

1r, 2r, 3r	=	first, second, third reading
amdts	=	amendments
com	=	committee
div	=	division
m	=	motion
neg	=	negatived
qu	=	question
ref	=	referred
rep	=	report
r.a.	=	Royal Assent

Acts passed during the Session

PUBLIC ACTS

Chapter		*Bill No.*
	Assented to November 5, 1986	
44	Income Tax Act amendment	C-11
	Assented to November 18, 1986	
45	Canada Petroleum Resources Act	C-5
46	Maintenance of Ports Operations Act, 1986	C-24
	Assented to November 27, 1986	
47	Bank of British Columbia Business Continuation Act	C-27
48	Income Tax Conventions Act	S-2
	Assented to December 19, 1986	
49	Railway Act amendment	C-4
50	Senate and House of Commons Act amendment	C-20
51	Coastal Fisheries Protection Act amendment	C-26
52	Farm Improvement Loans Act amendment	C-31
53	Fisheries Improvement Loans Act amendment	C-32
54	Excise Tax Act and Excise Act amendment	C-14
55	Income Tax Act and a related Act amendment	C-23
56	Unemployment Insurance Act, 1971 amendment	C-16
57	Canadair Limited Divestiture Authorization Act	C-25
58	Petroleum and Gas Revenue Tax and Income Tax Act amendment and to repeal the Petroleum and Gas Revenue Tax Act	C-17
59	Immigration Act, 1976 amendment	C-34
60	Salaries Act amendment	C-36
61	Appropriation Act No. 3, 1986-87	C-29
62	Appropriation Act No. 4, 1986-87	C-35
	Assented to March 25, 1987	
1	National Archives of Canada Act	C-7
2	Prairie Grain Advance Payments Act amendment	C-12
3	Canada-Newfoundland Atlantic Accord Implementation Act	C-6
4	Radio Act amendment	C-3
5	Borrowing Authority Act, 1986-87 (No.2)	C-40
6	Appropriation Act No.5, 1986-87	C-47
	Assented to March 26, 1987	
7	Canada Shipping Act amendment	C-39
8	Territorial Lands Act amendment	C-43
9	Northern Canada Power Commission Yukon Assets Disposal Authorization Act	C-45
10	Appropriation Act No. 1, 1987-88	C-48

Acts passed during the Session—*Cont'd*

PUBLIC ACTS—*Cont'd*

Chapter		*Bill No.*
	Assented to March 31, 1987	
11	Appropriation Act No. 2, 1987-88	C-49
	Assented to April 1, 1987	
12	Teleglobe Canada Reorganization and Divestiture Act	C-38
	Assented to April 14, 1987	
13	Criminal Code (torture) Act amendment	C-28
14	Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 amendment	C-44
	Assented to May 28, 1987	
15	Softwood Lumber Products Export Charge Act	C-37
16	Export and Import Permits Act amendment	C-57
	Assented to June 25, 1987	
17	Unemployment Insurance Benefit Entitlement Adjustments (Pension Payments) Act	C-50
18	Canadian Exploration and Development Incentive Program Act	C-59
19	Bell Canada Act	C-13
20	Appropriation Act No. 3, 1987-88	C-65
	Assented to June 30, 1987	
21	Judges Act, Federal Court Act and Tax Court of Canada Act amendment	C-41
22	Shipping Conferences Exemption Act, 1987	C-21
23	Financial Institutions and Deposit Insurance System Amendment Act	C-42
24	Criminal Code and Canada Evidence Act amendment	C-15
25	Veterans Appeal Board Act	C-66
26	Financial Institutions Acts amendment	C-56
27	Forgiveness of Certain Official Development Assistance Debts Act	C-62
28	Small Businesses Loans Act amendment	C-63
29	Customs Tariff and Duties Relief Act amendment	C-69
30	Hazardous Products Act amendment	C-70
31	Farm Improvement and Marketing Cooperatives Loans Act	C-78
32	Customs Act amendment	C-80
33	Food and Drugs Act amendment	S-6
	Assented to August 28, 1987	
34	National Transportation Act, 1987	C-18
35	Motor Vehicle Transport Act, 1987	C-19
36	Maintenance of Railway Operations Act, 1987	C-85
	Assented to September 16, 1987	
37	Criminal Code, Immigration Act, 1976 and Citizenship Act amendment	C-71
	Assented to October 8, 1987	
38	Canagrex Dissolution Act	C-2
39	Bretton Woods and Related Agreements Act amendment	C-68
	Assented to October, 16, 1987	
40	Postal Services Continuation Act, 1987	C-86

Acts passed during the Session—*Cont'd*

PUBLIC ACTS—*Cont'd*

Chapter		*Bill No.*
	Assented to November 19, 1987	
41	Patent Act amendment	C-22
42	Supreme Court Act amendment	C-53
	Assented to December 17, 1987	
43	Royal Canadian Mint Act and Currency Act amendment	C-46
44	Unemployment Insurance Act, 1971 amendment	C-90
45	Pension Act, War Veterans Allowance Act and Compensation for Former Prisoners of War Act amendment	C-100
46	Income Tax Act, Canada Pension Plan and Unemployment Insurance Act, 1971 amendment	C-64
47	Judges Act amendment	C-88
48	Revised Statutes of Canada, 1985 Act	C-94
49	Customs Tariff	C-87
50	Excise Tax Act amendment	C-101
51	Canada Labour Code amendment	C-97
52	Hudson Bay Mining and Smelting Co., Limited Act amendment	C-98
53	Citizenship Act (period of residence) amendment	C-254
54	Appropriation Act No. 4, 1987-88	C-95
	Assented to January 20, 1988	
1	Prince Rupert Grain Handling Operations Act	C-106
	Assented to February 4, 1988	
2	Miscellaneous Statute Law Amendment Act	C-104
3	Appropriation Act No. 5, 1987-88	C-108
	Assented to March 22, 1988	
4	Corporations and Labour Unions Returns Act amendment	C-91
5	Fruit and Vegetable Customs Orders Validation Act,	C-96
6	Currency Act amendment	C-99
7	Borrowing Authority Act, 1988-89	C-109
	Assented to March 29, 1988	
8	Unemployment Insurance Act, 1971 amendment	C-116
9	Appropriation Act No. 6, 1987-88	C-119
10	Appropriation Act No. 1, 1988-89	C-120
	Assented to April, 27, 1988	
11	Emergency Preparedness Act	C-76
12	Northern Canada Power Commission (Share Issuance and Sale Authorization) Act	C-125
	Assented to May 25, 1988	
13	Animal Pedigree Act	C-67
14	Customs Tariff Act amendment	C-118
	Assented to June 8, 1988	
15	Copyright Act amendment	C-60
16	Western Arctic (Inuvialuit) Claims Settlement Act amendment	C-102
17	Western Economic Diversification Act	C-113
	Assented to June 14, 1988	
18	Excise Tax Act and Excise Act amendment	C-117
19	Cape Breton Development Corporation Act amendment	C-127

Acts passed during the Session—*Cont'd*

PUBLIC ACTS—*Cont'd*

Chapter		*Bill No.*
	Assented to June 28, 1988	
20	Tobacco Products Control Act	C-51
21	Non-Smokers' Health Act	C-204
22	Canadian Environmental Protection Act	C-74
23	Indian Act (designated lands) amendment	C-115
24	Customs Tariff (code 9956) Act amendment	C-135
25	Appropriation Act No.2, 1988-89	C-138
	Assented to July 7, 1988	
26	National Transportation Act, 1987 amendment	C-131
27	Canada Agricultural Products Act	C-141
	Assented to July 21, 1988	
28	Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act	C-75
29	Emergencies Act	C-77
30	Criminal Code (victims of crime) Act amendment	C-89
31	Canadian Multiculturalism Act	C-93
32	National Housing Act and Canada Mortgage and Housing Corporation Act amendments	C-111
33	Canada Labour Code Act amendment	C-124
34	Canada Exploration Incentive Program Act amendment	C-137
35	Immigration Act, 1976 amendment	C-55
36	Immigration Act, 1976 and Criminal Code amendment	C-84
	Assented to July 18, 1988	
37	Mutual Legal Assistance in Criminal Matters Act	C-58
38	Official Languages Act	C-72
39	Indian Lands Agreement (1986) Act	C-73
40	Railway Safety Act	C-105
41	Eldorado Nuclear Limited Reorganization and Divestiture Act	C-121
42	Bretton Woods and Related Agreements Act amendment	C-126
43	Electoral Boundaries Readjustment (Chapleau) Act	C-308
	Assented to August 18, 1988	
44	Air Canada Public Participation Act	C-129
45	Western Grain Stabilization Act amendment	C-132
46	Canada Grain Act amendment	C-112
47	Canadian Wheat Board Act amendment	C-92
48	National Parks Act amendment	C-30
49	Quebec Courts Act amendment	C-145
50	Government Organization Act, Atlantic Canada, 1987	C-103
	Assented to September 13, 1988	
51	Criminal Code, Food and Drugs Act and Narcotic Control Act amendment	C-61
52	Indian Act (death rules) amendment	C-150
53	Lobbyists Registration Act	C-82
54	National Capital Act amendment	C-153
55	Income Tax and Related Acts amendment	C-139
56	Canadian International Trade Tribunal Act amendment	C-110
57	Indian Act (minors' funds and surviving spouse's preferential share) amendment	C-123
58	Canadian Centre on Substance Abuse Act	C-148
59	Blue Water Bridge Authority Act	C-210
60	Criminal Code (instruments and literature for illicit drug use) amendment	C-264
	Assented to September 22, 1988	
61	Tax Court of Canada Act amendment	C-146

Acts passed during the Session—*Cont'd*

PUBLIC ACTS—*Cont'd*

Chapter		*Bill No.*
	Assented to September 22, 1988—Cont'd	
62	Heritage Railway Station Protection Act	C-205
	Assented to September 30, 1988	
63	Unemployment Insurance Act, 1971 amendment	C-158
64	International Centre for Human Rights and Democratic Development Act	C-147
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	Assented to December 18, 1986	
64	Alliance Nationale Consolidated Act, 1945	S-3
	Assented to June 30, 1987	
55	Windsor-Detroit Tunnel Act	S-11
	Assented to November 19, 1987	
56	Yellowknife Electric Ltd. Act	S-10
	Assented to December 17, 1987	
57	Cooperants, Mutual Life Insurance Society Act	S-14
	Assented to July 21, 1988	
66	Montreal Trust Company of Canada Act	S-13
	Assented to September 30, 1988	
67	Grenville Aggregate Specialties Limited	S-21

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(2nd Session, 33rd Parliament)

GOVERNMENT BILLS

(HOUSE OF COMMONS)

BILL C-2

An Act to dissolve Canagrex and to amend certain Acts in consequence thereof

(a) Referral of subject-matter of Bill to Agriculture and Forestry Committee, October 30, 1986. Report from Committee, June 23, 1987.

(b) First reading, September 15. Second reading and referral to Agriculture and Forestry Committee, September 17. Report from Committee (without amendment), September 30. Third reading, October 1. Royal Assent, October 8. *Chapter 38, 1987.*

BILL C-3

An Act to amend the Radio Act

(a) Referral of subject-matter of Bill to Transport and Communications Committee, October 30, 1986. Report from Committee, February 18, 1987.

(b) First reading, March 17. Second reading, March 24. Third reading and Royal Assent, March 25. *Chapter 4, 1987.*

BILL C-4

An Act to amend the Railway Act

(a) Referral of subject-matter of Bill to Transport and Communications Committee, October 30, 1986. Report from Committee, December 16.

(b) First and second readings, December 16. Third reading, December 17. Royal Assent December 19. *Chapter 49, 1986.*

BILL C-5

An Act to regulate interests in petroleum in relation to frontier lands, to amend the Oil and Gas Production and Conservation Act and to repeal the Canada Oil and Gas Act

(a) Referral of subject-matter of Bill to Energy and Natural Resources Committee, October 9, 1986.

(b) First reading, October 28. Second reading and referral to Energy and Natural Resources Committee, November 4. Report from Committee (without amendment) and third reading, November 6. Royal Assent, November 18. *Chapter 45, 1986.*

BILL C-6

An Act to implement an agreement between the Government of Canada and the Government of Newfoundland and Labrador on offshore petroleum resource management and revenue sharing and to make related and consequential amendments

(a) Referral of subject-matter of Bill to Energy and Natural Resources Committee, October 9, 1986.

(b) First reading, March 10, 1987. Second reading, March 17. Third reading, March 19. Royal Assent, March 25. *Chapter 3, 1987.*

SUBJECT-MATTER OF BILL C-7

An Act respecting the Archives of Canada and records of government institutions of Canada and to amend the Copyright Act

Referral of subject-matter of Bill to Legal and Constitutional Affairs Committee, November 27, 1986.

BILL C-7

An Act respecting the National Archives of Canada and records of government institutions of Canada and to amend other Acts in relation thereto

First reading, February 3, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, February 5. Report from Committee (without amendment), February 12. Third reading, February 17. Royal Assent, March 25. *Chapter 1, 1987.*

SUBJECT-MATTER OF BILL C-8

An Act to amend the Canadian and British Insurance Companies Act, the Foreign Insurance Companies Act and the Winding-up Act

Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, October 9, 1986.

SUBJECT-MATTER OF BILL C-9

An Act to amend the Loan Companies Act, the Trust Companies Act, the Bank Act and the Quebec Savings Banks Act in respect of certain regulatory matters

Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, October 9, 1986.

BILL C-11

An Act to amend the Income Tax Act

First reading, October 28, 1986. Second reading, October 29. Third reading, October 30. Royal Assent, November 5. *Chapter 44, 1986.*

BILL C-12

An Act to amend the Prairie Grain Advance Payments Act

(a) Referral of subject-matter of Bill to Agriculture and Forestry Committee, October 30, 1986.

(b) First reading, March 10, 1987. Second reading, March 12. Third reading, March 17. Royal Assent, March 25. *Chapter 2, 1987.*

BILL C-13

An Act respecting the reorganization of Bell Canada

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, October 30, 1986. Report from Committee, December 16.

(b) First reading, June 16, 1987. Second reading, June 23. Third reading and Royal Assent, June 25. *Chapter 19, 1987.*

BILL C-14

An Act to amend the Excise Tax Act and the Excise Act

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, October 30, 1986. Report from Committee, November 6.

(b) First reading, December 16. Second reading, December 18. Third reading and Royal Assent, December 19. *Chapter 54, 1986.*

BILL C-15

An Act to amend the Criminal Code and the Canada Evidence Act

(a) Referral of subject-matter of Bill to Legal and Constitutional Affairs Committee, November 4, 1986. Report from Committee, June 26, 1987.

(b) First reading, June 23. Second and third readings and Royal Assent, June 30. *Chapter 24, 1987.*

BILL C-16

An Act to amend the Unemployment Insurance Act, 1971

(a) Referral of subject-matter of Bill to Social Affairs, Science and Technology Committee, November 4, 1986. Report from Committee, December 19.

(b) First, second, third readings and Royal Assent, December 19. *Chapter 56, 1986.*

BILL C-17

An Act to amend the Petroleum and Gas Revenue Tax Act and the Income Tax Act and to repeal the Petroleum and Gas Revenue Tax Act

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, November 5, 1986. Report from Committee, November 26.

(b) First, second, third readings and Royal Assent, December 19. *Chapter 58, 1986.*

BILL C-18

An Act respecting national transportation

(a) Referral of subject-matter of Bill to Transport and Communications Committee, June 16, 1987.

(b) First reading, June 18. Second reading and referral to Transport and Communications Committee, June 29. Report from Committee (with ten amendments), August 10. Adoption of Report, August 11. Third reading, as amended, August 12. Amendments agreed to by Commons, without amendment, August 20. Royal Assent, August 28. *Chapter 34, 1987.*

BILL C-19

An Act respecting motor vehicle transport by extra-provincial undertakings

(a) Referral of subject-matter of Bill to Transport and Communications Committee, June 16, 1987.

(b) First reading, June 25. Second reading and referral to Transport and Communications Committee, June 29. Report from Committee (with three amendments), August 10. Adoption of Report, August 11. Third reading, as amended, August 12. Amendments agreed to by Commons, without amendment, August 20. Royal Assent, August 28. *Chapter 35, 1987.*

BILL C-20

An Act to amend the Senate and House of Commons Act

First and second readings, December 16, 1986. Third reading, December 17. Royal Assent, December 19. *Chapter 50, 1986.*

BILL C-21

An Act to exempt certain shipping conference practices from the provisions of the Competition Act, to repeal the Shipping Conferences Exemption Act, 1979 and to amend other Acts in consequence thereof

(a) Referral of subject-matter of Bill to Transport and Communications Committee, November 27, 1986. Interim Report from Committee, June 23, 1987. Final Report, June 30.

(b) First, second and third readings and Royal Assent, June 30. *Chapter 22, 1987.*

BILL C-22

An Act to amend the Patent Act and to provide for certain matters in relation thereto

(a) Referral of subject-matter of Bill to Special Committee on subject-matter of Bill C-22, April 8, 1987. Report from Committee, June 23.

(b) First reading, May 7. Second reading and referral to Special Committee on Bill C-22, June 25. Report from Committee (with eleven amendments), August 10. Report referred back to Committee, August 11. Report from Committee (with ten amendments), and adoption of Report, August 12. Third reading, as amended, August 13. Message from Commons agreeing with one amendment; further amending two and disagreeing with the remaining, amendments. September 2. Referral of Message to Banking, Trade and Commerce Committee, September 3. Report from Committee (with certain amendments), October 21. Adoption of Report, October 29. Message from Commons agreeing with one amendment: further amending three and disagreeing with the remaining amendments, November 17. Royal Assent, November 19. *Chapter 41, 1987.*

BILL C-23

An Act to amend the Income Tax Act and a related Act

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, November 27, 1986. Report from Committee, December 16.

(b) First and second readings, December 18. Third reading and Royal Assent, December 19. *Chapter 55, 1986.*

BILL C-24

An Act to provide for the maintenance of ports operations

First and second readings; referral to Committee of the Whole; report from Committee (without amendment); third reading and Royal Assent, November 18, 1986. *Chapter 46, 1986.*

BILL C-25

An Act to authorize the divestiture of Canadair Limited and to provide for other matters in connection therewith

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, November 27, 1986. Report from Committee. December 18.

(b) First and second readings, December 18. Third reading and Royal Assent, December 19. *Chapter 57, 1986.*

BILL C-26

An Act to amend the Coastal Fisheries Protection Act

(a) Referral of subject-matter of Bill to Fisheries Committee, November 27, 1986.

(b) First reading, December 16. Second reading, December 17. Third reading, December 18. Royal Assent, December 19. *Chapter 51, 1986.*

BILL C-27

An Act to facilitate the continuation of the business of the Bank of British Columbia

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, November 26, 1986. Report from Committee, November 27.

(b) First, second, and third readings and Royal Assent, November 27. *Chapter 47, 1986.*

BILL C-28

An Act to amend the Criminal Code (torture)

First reading, March 31, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, April 8. Report from Committee (without amendment), April 9. Third reading and Royal Assent, April 14. *Chapter 13, 1987.*

BILL C-29

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1987

First reading, December 16, 1986. Second reading, December 17. Third reading, December 18. Royal Assent, December 19. *Chapter 61, 1986.*

BILL C-30

An Act to amend the National Parks Act and to amend An Act to amend the National Parks Act

First reading, July 19, 1988. Second reading and referral to Energy and Natural Resources Committee, July 28. Report from Committee (without amendment), August 17. Third reading and Royal Assent, August 18, 1988. *Chapter 48, 1988.*

BILL C-31

An Act to amend the Farm Improvement Loans Act

First reading, December 16, 1986. Second reading, December 17. Third reading, December 18. Royal Assent, December 19. *Chapter 52, 1986.*

BILL C-32

An Act to amend the Fisheries Improvement Loans Act

First reading, December 16, 1986. Second reading, December 17. Third reading, December 18. Royal Assent, December 19. *Chapter 53, 1986.*

BILL C-34

An Act to amend the Immigration Act, 1976

First and second readings; referral to Committee of the Whole; report from Committee (without amendment); third reading, and Royal Assent, December 19, 1986. *Chapter 59, 1986.*

BILL C-35

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1987

First and second readings, December 18, 1986. Third reading and Royal Assent, December 19. *Chapter 62, 1986.*

BILL C-36

An Act to amend the Salaries Act

First, second, third readings and Royal Assent, December 19, 1986. *Chapter 60, 1986.*

BILL C-37

An Act respecting the imposition of a charge on the export of certain softwood lumber products

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, February 5, 1987. Report from Committee, May 5.

(b) First reading, May 26. Second reading, May 27. Third reading and Royal Assent, May 28. *Chapter 15, 1987.*

BILL C-38

An Act respecting the reorganization and divestiture of Teleglobe Canada

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, February 18, 1987. Report from Committee, March 31.

(b) First reading, March 31. Second and Third readings and Royal Assent, April 1. *Chapter 12, 1987.*

BILL C-39

An Act to amend the Canada Shipping Act and to amend the Arctic Waters Pollution Prevention Act, the Maritime Code Act and the Oil and Gas Production and Conservation Act in consequence thereof

First reading, March 10, 1987. Second reading and referral to Transport and Communications Committee, March 12. Report from Committee (without amendment), March 25. Third reading and Royal Assent, March 26. *Chapter 7, 1987.*

BILL C-40

An Act to provide borrowing authority

First reading, March 17, 1987. Second reading and referral to National Finance Committee, March 24. Report from Committee (without amendment), third reading and Royal Assent, March 25. *Chapter 5, 1987.*

BILL C-41

An Act to amend the Judges Act, the Federal Court Act and the Tax Court of Canada Act

First reading, June 23, 1987. Second and third readings, June 26. Royal Assent, June 30. *Chapter 21, 1987.*

BILL C-42

An Act respecting financial institutions and the deposit insurance system

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, March 25, 1987. Report from Committee, May 12.

(b) First, second and third readings and Royal Assent, June 30. *Chapter 23, 1987.*

BILL C-43

An Act to amend the Territorial Lands Act

(a) Referral of subject-matter of Bill to Agriculture and Forestry Committee, March 17, 1987. Report from Committee, March 26.

(b) First, second, and third readings and Royal Assent, March 26. *Chapter 8, 1987.*

BILL C-44

An Act to amend the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977

(a) Referral of subject-matter of Bill to National Finance Committee, April 8, 1987. Report from Committee, April 14.

(b) First, second and third readings and Royal Assent, April 14. *Chapter 14, 1987.*

BILL C-45

An Act to authorize the disposal of certain assets in the Yukon Territory that are held or used by the Northern Canada Power Commission and to provide for other matters in connection therewith

(a) Referral of subject-matter of Bill to Legal and Constitutional Affairs Committee, March 19, 1987. Report from Committee, March 26.

(b) First, second, and third readings and Royal Assent, March 26. *Chapter 9, 1987.*

BILL C-46

An Act to amend the Royal Canadian Mint Act and the Currency Act

First reading, November 3, 1987. Second reading and referral to National Finance Committee, November 17. Report from Committee (without amendment), December 3. Third reading, December 8. Royal Assent, December 17, *Chapter 43, 1987.*

BILL C-47

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1987

First, second, and third readings and Royal Assent, March 25, 1987. *Chapter 6, 1987.*

BILL C-48

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988

First reading, March 25, 1987. Second and third readings and Royal Assent, March 26. *Chapter 10, 1987.*

BILL C-49

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988

First reading, March 25, 1987. Second reading and referral to National Finance Committee, March 26. Report from Committee (without amendment), third reading and Royal Assent, March 31. *Chapter 11, 1987.*

BILL C-50

An Act respecting the treatment of pension payments in determining certain unemployment insurance benefit entitlements and to amend the Unemployment Insurance Act, 1971

First reading, June 11, 1987. Second reading, June 16. Third reading, June 17. Royal Assent, June 25. *Chapter 17, 1987.*

BILL C-51

An Act to prohibit the advertising and promotion and respecting the labelling and monitoring of tobacco products

First reading, June 1, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, June 14. Report from Committee (without amendment), third reading and Royal Assent, June 28. *Chapter 20, 1988.*

BILL C-52

An Act respecting the use of foreign ships and non-duty paid ships in the coasting trade and in other marine activities of a commercial nature

First reading, March 29, 1988. Second reading and referral to Transport and Communications Committee, April 28.

BILL C-53

An Act to amend the Supreme Court Act and to amend various other Acts in consequence thereof

First reading, October 27, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, October 29. Report from Committee (without amendment), third reading and Royal Assent, November 19. *Chapter 42, 1987.*

BILL C-55

An Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof

First reading, October 22, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, November 3. Report from Committee (with certain amendments), May 11. Adoption of Report and third reading, as amended, May 17. Message from Commons agreeing with two amendments, amending five, disagreeing with the others and making four further amendments, June 21. Amendments referred to Legal and Constitutional Affairs Committee, July 14. Report from Commitee, July 20. Adoption of Report Assent, July 21. *Chapter 35, 1988.*

BILL C-56

An Act to amend certain Acts relating to financial institutions

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, May 12, 1987. Report from Committee, June 25.

(b) First, second and third readings and Royal Assent, June 30. *Chapter 26, 1987.*

BILL C-57

An Act to amend the Export and Import Permits Act

First and second readings; referral to a Committee of the Whole; report from Committee (without amendment); third reading and Royal Assent, May 28, 1987. *Chapter 16, 1987.*

BILL C-58

An Act to provide for the implementation of treaties for mutual legal assistance in criminal matters and to amend the Criminal Code, the Crown Liability Act and the Immigration Act, 1976

First reading, July 12, 1988. Second reading and referral to Legal and Constitutional Affairs Committee, July 13. Report from Committee (without amendment), third reading and Royal Assent, July 28. *Chapter 37, 1988.*

BILL C-59

An Act to provide for payments in respect of exploration for or development of lands for the production of hydrocarbons in Canada other than coal

First reading, June 11, 1987. Second and third readings, June 18. Royal Assent, June 25. *Chapter 18, 1987.*

BILL C-60

An Act to amend the Copyright Act and to amend other Acts in consequence thereof

First reading, February 4, 1988. Second reading and referral to Banking, Trade and Commerce Committee, February 11. Report from Committee (with certain amendments), March 24. Adoption of Report and third reading as amended, May 3. Message from Commons disagreeing with amendments, May 18. Referral of Message to Banking, Trade and Commerce Committee, May 24. Report from Committee, May 31. Adoption of Report, June 1. Royal Assent, June 8. *Chapter 15, 1988.*

BILL C-61

An Act to amend the Criminal Code, the Food and Drugs Act and the Narcotic Control Act

First reading, July 12, 1988. Second reading and referral to Legal and Constitutional Affairs Committee, July 13. Report from Committee (without amendment), September 1. Third reading, September 7. Royal Assent, September 13. *Chapter 51, 1988.*

BILL C-62

An Act relating to the forgiveness of debts incurred or assumed in respect of certain official development assistance loans made by the Government of Canada to the Governments of Togo and of the Islamic Republic of Mauritania and also to the former East African Community

(a) Referral of subject-matter of Bill to Foreign Affairs Committee, June 16, 1987. Report from Committee, June 25.

(b) First, second and third readings and Royal Assent, June 30. *Chapter 27, 1987.*

BILL C-63

An Act to amend the Small Businesses Loans Act

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, June 16, 1987. Report from Committee, June 26.

(b) First, second and third readings and Royal Assent, June 30. *Chapter 28, 1987.*

BILL C-64

An Act to amend the Income Tax Act, a related Act, the Canada Pension Plan and the Unemployment Insurance Act, 1971

First and second readings and referral to Banking, Trade and Commerce Committee, December 9, 1987. Report from Committee (without amendment), December 15. Third reading, December 16. Royal Assent, December 17. *Chapter 46, 1987.*

BILL C-65

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988

First reading, June 16, 1987. Second and third readings, June 18. Royal Assent, June 25. *Chapter 20, 1987.*

BILL C-66

An Act to establish the Veterans Appeal Board and to amend other Acts in relation thereto

First reading, June 26, 1987. Second and third readings and Royal Assent, June 30. *Chapter 25, 1987.*

BILL C-67

An Act respecting animal pedigree associations

First reading, March 29, 1988. Second reading and referral to Agriculture and Forestry Committee, April 26. Report from Committee (without amendment), May 5. Third reading, May 11. Royal Assent, May 25. *Chapter 13, 1988.*

BILL C-68

An Act to amend the Bretton Woods and Related Agreements Act

First reading, September 29, 1987. Second reading and referral to Foreign Affairs Committee, September 30. Report from Committee (without amendment), October 7. Third reading and Royal Assent, October 8. *Chapter 39, 1987.*

BILL C-69

An Act to amend the Customs Tariff and the Duties Relief Act

(a) Referral of subject-matter of Bill to Banking, Trade and Commerce Committee, June 18, 1987. Report from Committee, June 29.

(b) First, second and third readings and Royal Assent, June 30. *Chapter 29, 1987.*

BILL C-70

An Act to amend the Hazardous Products Act and the Canada Labour Code, to enact the Hazardous Materials Information Review Act and to amend other Acts in relation thereto

First and second readings; referral to a Committee of the Whole; report from Committee (without amendment); third reading and Royal Assent, June 30, 1987. *Chapter 30, 1987.*

BILL C-71

An Act to amend the Criminal Code, the Immigration Act, 1976 and the Citizenship Act

First reading, August 28, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, September 3. Report from Committee (without amendment), September 14. Third reading, September 15. Royal Assent, September 16. *Chapter 37, 1987.*

BILL C-72

An Act respecting the status and use of the official languages of Canada

First reading, July 7, 1988. Second reading and referral to Special Committee on Bill C-72, July 14. Report from Committee (without amendment), July 21. Third reading, July 27. Royal Assent, July 28. *Chapter 38, 1988.*

BILL C-73

An Act to provide for the implementation of an agreement respecting Indian lands in Ontario

First reading, July 19, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, July 21. Report from Committee (without amendment), July 26. Third reading, July 27. Royal Assent, July 28. *Chapter 39, 1988.*

BILL C-74

An Act respecting the protection of the environment and of human life and health

First reading, May 10, 1988. Second reading and referral to Energy and Natural Resources Committee, June 1, 1988. Report from Committee (with certain amendments), June 14. Adoption of Report, June 15. Third reading, as amended, June 16. Royal Assent, June 28. *Chapter 22, 1988.*

BILL C-75

An Act to implement an agreement between the Government of Canada and the Government of Nova Scotia on offshore petroleum resource management and revenue sharing and to make related and consequential amendments

First reading, July 12, 1988. Second reading and referral to Energy and Natural Resources Committee, July 13. Report from Committee (without amendment), July 20. Third reading and Royal Assent, July 21. *Chapter 28, 1988.*

BILL C-76

An Act to provide for emergency preparedness and to make a related amendment to the National Defence Act

First reading, March 15, 1988. Second reading and referral to National Defence Committee, March 23. Report from Committee (without amendment), March 30. Third reading, March 31. Royal Assent, April 27. *Chapter 11, 1988.*

BILL C-77

An Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof

First reading, April 27, 1988. Second reading, May 18. Referral to Committee of the Whole, May 24. In the Committee, May 31; June 8; June 28. Report from Committee (with certain amendments), adoption of Report and third reading, June 28. Message from Commons agreeing to the amendments, July 12. Royal Assent, July 21. *Chapter 29, 1988.*

BILL C-78

An Act to increase the availability of loans for the purpose of the improvement and development of farms and the processing, distribution or marketing of farm products by cooperative associations, to amend the Farm Improvement Loans Act and to amend certain other acts in consequence thereof

First, second and third readings and Royal Assent, June 30, 1987. *Chapter 31, 1987.*

BILL C-80

An Act to amend the Customs Act

First, second and third readings and Royal Assent, June 30, 1987. *Chapter 32, 1987.*

BILL C-82

An Act respecting the registration of lobbyists

First reading, July 26, 1988. Second reading and referral to Legal and Constitutional Affairs Committee, July 27. Report from Committee (without amendment), September 7. Third reading, September 8. Royal Assent, September 13. *Chapter 53, 1988.*

BILL C-83

An Act to amend the Senate and House of Commons Act

First reading, October 20, 1987. Subject-matter of Bill referred to Internal Economy, Budgets and Administration Committee, May 19, 1988.

BILL C-84

An Act to amend the Immigration Act, 1976 and the Criminal Code in consequence thereof

First reading, September 15, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, September 16. Report from Committee (with thirteen amendments) and third reading, as amended, December 15. Message from Commons agreeing with two amendments, amending seven, disagreeing with the others and making two further amendments, February 4, 1988. Referral of Message to Legal and Constitutional Affairs Committee, February 11. Report from Committee (with certain amendments) and

adoption of Report, March 30. Message from Commons agreeing with one amendment, amending two, disagreeing with the others and making one further amendment, July 13. Amendments referred to Legal and Constitutional Affairs Committee, July 14. Report from Committee, July 20. Adoption of Report and Royal Assent, July 21. *Chapter 36, 1988.*

BILL C-85

An Act to provide for the resumption and continuance of railway operations and for the settlement of disputes respecting terms and conditions of employment between railway companies and their employees

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment); third reading and Royal Assent, August 28, 1987. *Chapter 36, 1987.*

BILL C-86

An Act to provide for the resumption and continuation of postal services

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment); third reading and Royal Assent, October 16, 1987. *Chapter 40, 1987.*

BILL C-87

An Act respecting the imposition of duties of customs and other charges, to give effect to the International Convention on the Harmonized Commodity Description and Coding System, to provide relief against the imposition of certain duties of customs or other charges, to provide for other related matters and to amend or repeal certain Acts in consequence thereof

First reading, December 15, 1987. Second reading and referral to a Committee of the Whole, December 16. Report from Committee (without amendment), third reading and Royal Assent, December 17. *Chapter 49, 1987.*

BILL C-88

An Act to amend the Judges Act

First and second readings and referral to Legal and Constitutional Affairs Committee, December 15, 1987. Report from Committee (without amendment), third reading and Royal Assent, December 17. *Chapter 47, 1987.*

BILL C-89

An Act to amend the Criminal Code (victims of crime)

First reading, May 4, 1988. Second reading and referral to Legal and Constitutional Affairs Committee, May 18. Report from Committee (without amendment), July 12. Third reading, July 13. Royal Assent, July 21. *Chapter 30, 1988.*

BILL C-90

An Act to amend the Unemployment Insurance Act, 1971

First reading, December 1, 1987. Second reading and referral to Social Affairs, Science and Technology Committee, December 8. Report from Committee (without amendment), December 10. Third reading, December 15, 1987. Royal Assent, December 17. *Chapter 44, 1987.*

BILL C-91

An Act to amend the Corporations and Labour Unions Returns Act

First reading, January 26, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, January 27. Report from Committee (without amendment), February 9. Third reading, February 11. Royal Assent, March 22. *Chapter 4, 1988.*

BILL C-92

An Act to amend the Canadian Wheat Board Act

First reading, July 19, 1988. Second reading and referral to Agriculture and Forestry Committee, July 27. Report from Committee (without amendment), third reading and Royal Assent, August 18. *Chapter 47, 1988.*

BILL C-93

An Act for the preservation and enhancement of multiculturalism in Canada

First and second readings; referral to Social Affairs, Science and Technology Committee, July 13, 1988. Report from Committee (without amendment), July 14. Third reading, July 19. Royal Assent, July 21. *Chapter 31, 1988.*

BILL C-94

An Act to bring into force the Revised Statutes of Canada, 1985

First reading, December 8, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, December 10. Report from Committee (without amendment), third reading and Royal Assent, December 17. *Chapter 48, 1987.*

BILL C-95

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988

First and second readings, December 15, 1987. Third reading, December 16. Royal Assent, December 17, *Chapter 54, 1987.*

BILL C-96

An Act to validate certain customs duty orders relating to fresh fruits and vegetables

First reading, January 26, 1988. Second reading and referral to Banking, Trade and Commerce Committee, January 28. Report from Committee (without amendment), February 9. Third reading, February 11. Royal Assent, March 22. *Chapter 5, 1988.*

BILL C-97

An Act to amend the Canada Labour Code

First reading, December 15, 1987. Second reading and referral to a Committee of the Whole, December 16. Report from Committee (without amendment), third reading and Royal Assent, December 17. *Chapter 51, 1987.*

BILL C-98

An Act to amend An Act respecting the Hudson Bay Mining and Smelting Co., Limited

First reading, December 15, 1987. Second reading and referral to a Committee of the Whole, December 16. Report from Committee (without amendment), third reading and Royal Assent, December 17. *Chapter 52, 1987.*

BILL C-99

An Act to amend the Currency Act

First reading, January 26, 1988. Second reading and referral to National Finance Committee, January 28. Report from Committee (without amendment) and third reading, February 11. Royal Assent, March 22. *Chapter 6, 1988.*

BILL C-100

An Act to amend the Pension Act, the War Veterans Allowance Act, to repeal the Compensation for Former Prisoners of War Act and to amend another Act in relation thereto

First, second and third readings, December 15, 1987. Royal Assent, December 17. *Chapter 45, 1987.*

BILL C-101

An Act to amend the Excise Tax Act

First reading, December 16, 1987. Second and third readings and Royal Assent, December 17. *Chapter 50, 1987.*

BILL C-102

An Act to amend the Western Arctic (Inuvialuit) Claims Settlement Act

First reading, March 24, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, April 26. Report from Committee (with one amendment), May 5. Adoption of Report, May 19. Third reading as amended, May 25. Message from Commons agreeing to the amendment, June 2. Royal Assent, June 8. *Chapter 16, 1988.*

BILL C-103

An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts

First reading, May 11, 1988. Second reading and referral to National Finance Committee, May 31. Report from Committee (without amendment—Bill divided into two Bills), adoption of Report and third reading of Part I, July 7. Message from Commons, July 19. Referral of Message to National Finance Committee, July 26. Report from Committee (without amendment), third reading and Royal Assent, August 18. *Chapter 50, 1988.*

BILL C-104

An Act to correct certain anomalies, inconsistencies, archaisms and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada

First reading, January 26, 1988. Second reading, January 27. Third reading, January 28. Royal Assent, February 4. *Chapter 2, 1988.*

BILL C-105

An Act to ensure the safe operation of railways and to amend certain other Acts in consequence thereof

First reading, May 18, 1988. Second reading and referral to Transport and Communications Committee, June 1. Report from Committee (with one amendment), July 7. Adoption of Report, July 19. Third reading as amended, July 20. Message from Commons agreeing to the amendment, July 26. Royal Assent, July 28. *Chapter 40, 1988.*

BILL C-106

An Act to provide for the resumption of grain handling operations at the port of Prince Rupert, British Columbia

First and second readings and referral to a Committee of the Whole; report from Committee (without amendment); third reading and Royal Assent, January 20, 1988. *Chapter 1, 1988.*

BILL C-108

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988

First reading, February 2, 1988. Second and third readings and Royal Assent, February 4. *Chapter 3, 1988.*

BILL C-109

An Act to provide borrowing authority

First reading, March 15, 1988. Second reading and referral to National Finance Committee, March 16. Report from

Committee (without amendment); third reading and Royal Assent, March 22. *Chapter 7, 1988.*

BILL C-110

An Act to establish the Canadian International Trade Tribunal and to amend or repeal other Acts in consequence thereof

First reading, July 19, 1988. Second reading and referral to Banking, Trade and Commerce Committee, July 26. Report from Committee (without amendment), September 8. Third reading, September 9. Royal Assent, September 13. *Chapter 56, 1988.*

BILL C-111

An Act to amend the National Housing Act and the Canada Mortgage and Housing Corporation Act and to repeal certain enactments in consequence thereof

First reading, July 5, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, July 7. Report from Committee (without amendment), July 12. Third reading, July 13. Royal Assent, July 21. *Chapter 32, 1988.*

BILL C-112

An Act to amend the Canada Grain Act and other Acts in consequence thereof

First reading, July 26, 1988. Second reading and referral to Agriculture and Forestry Committee, July 27. Report from Committee (without amendment), August 16. Third reading, August 17. Royal Assent, August 18. *Chapter 46, 1988.*

BILL C-113

An Act to promote the development and diversification of the economy of Western Canada, to establish the Department of Western Economic Diversification and to make consequential amendments to other Acts

First reading, May 11, 1988. Second reading and referral to National Finance Committee, May 17. Report from Committee (without amendment), June 2. Third reading, June 7. Royal Assent, June 8. *Chapter 17, 1988.*

BILL C-115

An Act to amend the Indian Act (designated lands)

First reading, June 7, 1988. Second reading and referral to Legal and Constitutional Affairs Committee, June 9. Report from Committee (with one amendment); adoption of Report and third reading, as amended, June 16. Royal Assent, June 28. *Chapter 23, 1988.*

BILL C-116

An Act to amend the Unemployment Insurance Act, 1971

First reading, March 24, 1988. Second reading and referral to Committee of the Whole; report from Committee (without amendment); third reading and Royal Assent, March 29. *Chapter 8, 1988.*

BILL C-117

An Act to amend the Excise Tax Act and the Excise Act

First reading, May 31, 1988. Second reading and referral to Banking, Trade and Commerce, June 2. Report from Committee (without amendment), June 9. Third reading and Royal Assent, June 14. *Chapter 18, 1988.*

BILL C-118

An Act to amend the Customs Tariff

First reading, April 26, 1988. Second reading and referral to Banking, Trade and Commerce Committee, May 3. Report from Committee (without amendment), May 11. Third reading, May 17. Royal Assent, May 25. *Chapter 14, 1988.*

BILL C-119

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1988

First, second, third readings and Royal Assent, March 29, 1988. *Chapter 9, 1988.*

BILL C-120

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1989

First, second, third readings and Royal Assent, March 29, 1988. *Chapter 10, 1988.*

BILL C-121

An Act to authorize the reorganization and divestiture of Eldorado Nuclear Limited and to amend certain Acts in consequence thereof

First reading, July 19, 1988. Second reading and referral to Energy and Natural Resources Committee, July 21. Report from Committee (without amendment), July 26. Third reading, July 27. Royal Assent, July 28. *Chapter 41, 1988.*

BILL C-123

An Act to amend the Indian Act (minors' funds and surviving spouse's preferential share)

First reading, August 30, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, September 7. Report from Committee (without amendment), September 9. Third reading, September 12. Royal Assent, September 13. *Chapter 57, 1988.*

BILL C-124

An Act to amend the Canada Labour Code

First reading, July 12, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, July 13. Report from Committee (without amendment), July 14. Third reading, July 14. Royal Assent, July 21. *Chapter 33, 1988.*

BILL C-125

An Act to enable the Northern Canada Power Commission to issue shares, to authorize the sale of those shares to the Government of the Northwest Territories, to repeal the Northern Canada Power Commission Act and to provide for related matters

First reading, April 18, 1988. Second and third readings and Royal Assent, April 27. *Chapter 12, 1988.*

BILL C-126

An Act to amend the Bretton Woods and Related Agreements Act

First reading, July 19, 1988. Second reading and referral to Committee of the Whole; Report from Committee (without amendment), July 27. Third reading and Royal Assent, July 28. *Chapter 42, 1988.*

BILL C-127

An Act to amend the Cape Breton Development Corporation Act

First reading, May 18, 1988. Second reading and referral to National Finance Committee, May 31. Report from Committee (without amendment), June 9. Third reading and Royal Assent, June 14. *Chapter 19, 1988.*

BILL C-129

An Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public

First reading, July 19, 1988. Second reading and referral to Banking, Trade and Commerce Committee, July 21. Report from Committee (without amendment), August 16. Third reading, August 17. Royal Assent, August 18. *Chapter 44, 1988.*

BILL C-130

An Act to implement the Free Trade Agreement between Canada and the United States of America

First reading, September 1, 1988. Second reading and referral to Foreign Affairs Committee, September 15.

BILL C-131

An Act to amend the National Transportation Act, 1987

First reading, June 21, 1988. Second reading and referral to Transport and Communications Committee, June 28. Report from Committee (without amendment), July 5. Third reading, July 6. Royal Assent, July 7. *Chapter 26, 1988.*

BILL C-132

An Act to amend the Western Grain Stabilization Act

First reading, July 26, 1988. Second reading and referral to Agriculture and Forestry Committee, July 27. Report from Committee (without amendment), August 16. Third reading, August 17. Royal Assent, August 18. *Chapter 45, 1988.*

BILL C-135

An Act to amend the Customs Tariff (code 9956)

First and second readings, referral to a Committee of the Whole, Report from Committee (without amendment), third reading and Royal Assent, June 28, 1988. *Chapter 24, 1988.*

BILL C-136

An Act respecting broadcasting and to amend certain Acts in relation thereto and in relation to radiocommunication

First reading, September 29, 1988. Second reading and referral to Transport and Communications Committee, September 30.

BILL C-137

An Act to provide for incentives to assist in financing exploration for mineral resources and hydrocarbons in Canada and to amend the Canadian Exploration and Development Incentive Program Act

First reading, June 28, 1988. Second reading and referral to Banking, Trade and Commerce Committee, July 6. Report from Committee (with certain amendments) and third reading, as amended, July 14. Message from Commons agreeing to the amendments, July 20. Royal Assent, July 21. *Chapter 34, 1988.*

BILL C-138

An Act for granting to Her Majesty certain sums of money for the Government of Canada for the financial year ending the 31st March, 1989

First, second, third readings and Royal Assent, June 28, 1988. *Chapter 25, 1988.*

BILL C-139

An Act to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts

First reading, August 30, 1988. Second reading and referral to Banking, Trade and Commerce Committee, August 31. Report from Committee (without amendment), September 8. Third reading, September 9. Royal Assent, September 13. *Chapter 55, 1988.*

BILL C-141

An Act to regulate the marketing of agricultural products in import, export and interprovincial trade and to provide for national standards and grades of agricultural products, for their inspection and grading, for the registration of establishments and for standards governing establishments

First reading, July 5, 1988. Second reading, referral to a Committee of the Whole and Report from Committee (without amendment), July 6. Third reading and Royal Assent, July 7. *Chapter 27, 1988.*

BILL C-143

An Act to establish the Canadian Centre on Substance Abuse

First reading, September 1, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, September 8. Report from Committee (without amendment), third reading and Royal Assent, September 13. *Chapter 58, 1988.*

BILL C-144

An Act to authorize payments by Canada toward the provision of child care services, and to amend the Canada Assistance Plan in consequence thereof

First reading, September 27, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, September 28.

BILL C-145

An Act to amend various Act to give effect to the reconstitution of the Quebec Provincial Court, Court of the Sessions of the Peace and Youth Court as the Court of Quebec

First reading, August 16, 1988. Second reading and referral to Legal and Constitutional Committee, August 17. Report from Committee (without amendment), third reading and Royal Assent, August 18. *Chapter 49, 1988.*

BILL C-146

An Act to amend the Tax Court of Canada Act and other Acts in consequence thereof

First reading, August 30, 1988. Second reading and referral to Banking, Trade and Commerce Committee, September 7. Report from Committee (without amendment), September 14. Third reading, September 15. Royal Assent, September 22. *Chapter 61, 1988.*

BILL C-147

An Act to establish the International Centre for Human Rights and Democratic Development

First reading, September 13, 1988. Second reading and referral to Foreign Affairs Committee, September 14. Report from Committee (with certain amendments); adoption of Report, third reading, as amended, and Royal Assent, September 30. *Chapter 64, 1988.*

BILL C-148

An Act to establish the Canadian Centre for Management Development and to amend certain Acts in consequence thereof

First reading, August 30, 1988. Second reading and referral to National Finance Committee, September 15.

BILL C-150

An Act to amend the Indian Act (death rules)

First reading, August 30, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, August 31. Report from Committee (without amendment), September 7. Third reading, September 8. Royal Assent, September 13. *Chapter 52, 1988.*

BILL C-153

An Act to amend the National Capital Act

First reading, August 30, 1988. Second reading and referral to National Finance Committee, August 31. Report from Committee (without amendment), September 8. Third reading, September 9. Royal Assent, September 13. *Chapter 54, 1988.*

BILL C-158

An Act to amend the Unemployment Insurance Act, 1971

First reading, September 29, 1988. Second reading and referral to a Committee of the Whole; report from Committee (without amendment), third reading and Royal Assent, September 30. *Chapter 63, 1988.*

MEMBERS' PUBLIC BILLS

(HOUSE OF COMMONS)

BILL C-204

An Act to regulate smoking in the federal workplace and on common carriers and to amend the Hazardous Products Act in relation to cigarette advertising (Senator Haidasz, P.C.)

First reading, June 1, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, June 8. Report from Committee (without amendment), June 14. Third reading and Royal Assent, June 28. *Chapter 21, 1988.*

BILL C-205

An Act to protect heritage railway stations (Senator Turner)

First reading, August 30, 1988. Second reading and referral to Transport and Communications Committee, September 1. Report from Committee (without amendment), September 13. Bill referred back to Transport and Communications Committee, September 14. Report from Committee (without amendment), September 20. Third reading, September 21. Royal Assent, September 22. *Chapter 62, 1988.*

BILL C-210

An Act to amend the Blue Water Bridge Authority Act (Senator Kelly)

First reading, August 16, 1988. Subject-matter of Bill referred to Legal and Constitutional Affairs Committee, August 18. Report from Committee, second and third readings, September 1. Royal Assent, September 13. *Chapter 59, 1988.*

BILL C-254

An Act to amend the Citizenship Act (period of residence) (Senator Bosa)

First reading, November 17, 1987. Second reading and referral to Social Affairs, Science and Technology Committee, December 8. Report from Committee (without amendment), December 10. Third reading, December 15. Royal Assent, December 17, *Chapter 53, 1987.*

BILL C-259

An Act to extend the term of a patent relating to a certain food additive (Senator Phillips)

First reading, June 22, 1987. Second reading and referral to Banking, Trade and Commerce Committee, June 25. Report from Committee (with one amendment), adoption of Report and third reading, as amended, June 26.

BILL C-264

An Act to amend the Criminal Code (instruments and literature for illicit drug use) (Senator Doody)

First and second readings; referral to Legal and Constitutional Affairs Committee, August 30, 1988. Report from Committee (without amendment), August 31. Third reading, September 1. Royal Assent, September 13. *Chapter 60, 1988.*

BILL C-308

An Act to change the name of the electoral district of Chapleau (Senator Flynn, P.C.)

First reading, July 26, 1988. Second and third readings, July 27. Royal Assent, July 28. *Chapter 43, 1988.*

GOVERNMENT BILLS

(SENATE)

BILL S-2

An Act to implement conventions between Canada and the Kingdom of the Netherlands and Canada and Japan and agreements between Canada and the People's Republic of China and Canada and the Republic of Malta for the avoidance of double taxation with respect to income tax

First reading, October 9, 1986. Second reading and referral to Banking, Trade and Commerce Committee, October 29. Report from Committee (with two amendments); adoption of Report and third reading, November 6. Passed by the House of Commons and Royal Assent, November 27. *Chapter 48, 1986.*

BILL S-6

An Act to amend the Food and Drugs Act

First reading, March 31, 1987. Second reading and referral to Social Affairs, Science and Technology Committee, April 7. Report from Committee (without amendment), May 5. Third reading, May 6. Passed by the Commons and Royal Assent, June 30. *Chapter 33, 1987.*

BILL S-9

An Act relating to the forgiveness of debts incurred or assumed in respect of certain official development assistance loans made by the Government of Canada to the Governments of Togo and of the Islamic Republic of Mauritania and also to the former East African Community

First reading, May 12, 1987. Second reading and referral to Foreign Affairs Committee, May 13. Withdrawal of Bill, May 26.

BILL S-19

An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament

First reading, July 20, 1988.

SENATORS' PRIVATE BILLS

BILL S-3

An Act to amend and repeal The Alliance Nationale Consolidated Act, 1945 (Senator Cogger)

First reading, October 30, 1986. Second reading and referral to Legal and Constitutional Affairs Committee, November 5. Report from Committee (with three amendments), November 25. Adoption of Report, November 26. Third reading, November 27. Passed by the Commons,

December 11. Royal Assent, December 19. *Chapter 64, 1986.*

BILL S-7

An Act to incorporate the Regional Vicar for Canada of the Prelature of the Holy Cross and Opus Dei (Senator Bélisle)

First reading, April 2, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, October 27. Report from Committee (with certain amendments), May 25, 1988.

BILL S-10

An Act to revive Yellowknife Electric Ltd. and to provide for its continuance under the Canada Business Corporations Act (Senator Nurgitz)

First reading, May 28, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, June 2. Report from Committee (without amendment), June 11. Third reading, June 16. Passed by the Commons, October 30. Royal Assent, November 19.

BILL S-11

An Act respecting the acquisition, operation and disposal of the Windsor-Detroit Tunnel by the City of Windsor (Senator Frith)

First reading, June 11, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, June 17. Report from Committee (with certain amendments), adoption of Report and third reading, June 26. Passed by the Commons and Royal Assent, June 30.

BILL S-14

An Act to authorize Cooperants, Mutual Life Insurance Society to be continued as a corporation under the laws of the Province of Quebec (Senator Cogger)

First reading, October 29. 1987. Second reading and referral to Legal and Constitutional Affairs Committee, November 4. Report from Committee (without amendment), December 2. Third reading, December 3. Passed by the Commons and Royal Assent, December 17.

BILL S-17

An Act to authorize the Montreal Trust Company of Canada to be continued as a corporation under the laws of the Province of Quebec (Senator Cogger)

First reading, June 8, 1988. Second reading and referral to Legal and Constitutional Affairs Committee, June 14. Report from Committee (without amendment), June 28. Third reading, July 5. Passed by the Commons, July 13. Royal Assent, July 21.

BILL S-21

An Act to revive Grenville Aggregate Specialties Limited and to provide for its continuance under the Canada Business Corporations Act (Senator LeBlanc, P.C.)

First reading, September 8, 1988. Second reading and referral to Legal and Constitutional Affairs Committee, September 12. Report from Committee (without amendment) and third reading, September 15. Passed by the Commons and Royal Assent, September 30.

SENATORS' PUBLIC BILLS

BILL S-4

An Act to amend the Hazardous Products Act (tobacco and tobacco products) (Senator Haidasz, P.C.)

First reading, November 6, 1986. Second reading and referral to Social Affairs, Science and Technology Committee, March 11, 1987. Orders discharged and Bill withdrawn, June 8, 1988.

BILL S-5

An Act to amend and consolidate the laws prohibiting marriage between related persons (Senator Nurgitz)

First reading, February 12, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, March 31. Report from Committee (without amendment), May 28. Third reading, June 16.

BILL S-8

An Act to amend the Citizenship Act (foreign spouses) (Senator Bosa)

First reading, April 14, 1987. Second reading and referral to Social Affairs, Science and Technology Committee, June 16. Report from Committee (with two amendments), October 6. Adoption of Report and third reading, October 8.

BILL S-12

An Act to amend the Constitution Act, 1867 (Qualifications of Senators) (Senator Marchand, P.C.)

First reading, June 23, 1987. Second reading and referral to Legal and Constitutional Affairs Committee, March 3.

BILL S-13

An Act to amend the Constitution Act, 1867 (Attendance of Senators) (Senator Godfrey)

First reading, June 25, 1987.

BILL S-15

An Act to amend the Patent Act (Senator Bonnell)

First reading, February 10, 1988. Second reading and referral to Banking, Trade and Commerce Committee, June 21. Report from Committee (without amendment), September 28. Third reading, September 29.

BILL S-16

An Act to amend the Criminal Code (protection of the unborn) (Senator Haidasz, P.C.)

First reading, May 18, 1988.

BILL S-18

An Act to amend the Immigration Act, 1976 (Senator Bosa)

First reading, June 14, 1988. Second reading and referral to Social Affairs, Science and Technology Committee, June 28. Report from Committee (without amendment), July 14. Third reading, July 19.

BILL S-20

An Act to amend the Constitution Act, 1867 (Speaker of the Senate) (Senator Molgat)

First reading, September 1, 1988.